

ORDINANCE NO. 2902

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADDING CHAPTER 18.60 TO TITLE 18 OF THE GARDEN GROVE MUNICIPAL CODE IMPLEMENTING A CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM

**City Attorney Summary**

***This Ordinance adopts regulations implementing a construction and demolition waste recycling program consistent with waste reduction requirements of the California Green Building Standards Code and the Waste Management Act of 1989.***

WHEREAS, the California Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) requires the City of Garden Grove to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in the volume of waste materials going to landfills, or face fines up to \$10,000 per day;

WHEREAS, the California Green Building Standards Code (Part 11 of Title 24, California Code of Regulations) known as CALGreen became mandatory on January 1, 2011, concurrent with other parts of the 2010 California Building Standards Code (Title 24) and mandated 50% diversion of construction and demolition material;

WHEREAS, every three years the California Building Standards Commission adopts new and/or updated standard construction codes;

WHEREAS, the 2016 CALGreen went into effect on January 1, 2017, and increased the construction and demolition material diversion requirement to 65% for the majority of demolition and construction projects; and

WHEREAS, the City Council adopts this ordinance to implement a Construction and Demolition Waste Recycling Program consistent with CALGreen and Waste Management Act of 1989 requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Chapter 18.60 is hereby added to Title 18 of the Garden Grove Municipal Code to read as follows:

## **CHAPTER 18.60**

### **CONSTRUCTION AND DEMOLITION WASTE RECYCLING PROGRAM**

Sections:

- 18.60.010 Declaration of purpose.
- 18.60.020 Definitions.
- 18.60.030 Designated recyclable and reusable materials.
- 18.60.040 Minimum Construction and Demolition Waste Diversion requirements.
- 18.60.050 Covered Projects.
- 18.60.060 Security Deposit and Waste Reduction and Recycling Plan required.
- 18.60.070 Exemptions.
- 18.60.080 Refund of security deposit.
- 18.60.090 Forfeiture of security deposit.
- 18.60.100 Use of security deposits.
- 18.60.110 Diversion of waste.
- 18.60.120 Certified recycling facilities.
- 18.60.130 Application fee.
- 18.60.140 Reporting.
- 18.60.150 Universal Waste Disposal.
- 18.60.160 Appeal.
- 18.60.170 Violations.

#### **18.60.010 Declaration of purpose.**

The purpose of this chapter is to promote the recycling of Construction and Demolition Waste to reduce the amount of such material that is landfilled, to protect the public health, safety, and welfare, and to assist the City and the Garden Grove Sanitary District in meeting State of California mandated Construction and Demolition Waste diversion requirements.

#### **18.60.020 Definitions.**

“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.

“C&D Compliance Official” means the person designated by the City Manager who is authorized and responsible for implementing this chapter.

“Construction” means the building, rehabilitation, remodeling, renovation or repair of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

“Construction and Demolition Waste” means used or discarded materials which results from the Construction or Demolition of any facility or structure and which is removed from the premises during the Construction or Demolition.

“Construction and Demolition Waste Recycling and Disposal Report Summary” means a completed form submitted by an Applicant for any Covered Project approved by the city documenting the Applicant’s compliance with the requirements of this chapter. The form is submitted after completion of demolition and/or construction of a project.

“Covered Project” has the meaning set forth in Section 18.60.050(A).

“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.

“Diversion Requirement” means the percentage of Construction and Demolition Waste for each Demolition and/or Construction Project that must be diverted from landfills.

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

“Project” means any activity that requires an application for a building or demolition permit or any similar permit from the city.

“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.

“Universal Waste” are any of the hazardous wastes that are listed in section 66261.9 of Article 1, Chapter 11, Division 4.5 of Title 22 of the California Code of Regulations, which includes electronic devices, batteries, electric lamps, fluorescent tubes and bulbs, high intensity discharge lamps, sodium vapor lamps and lamps that contain added mercury, mercury-containing equipment, CRT, CRT glass, and non-empty aerosol cans.

“Waste Reduction and Recycling Plan” means a completed form submitted by an Applicant for any Covered Project approved by the city to manage compliance with this chapter. The form is submitted when applying for a demolition or construction permit.

**18.60.030 Designated recyclable and reusable materials.**

Designated recyclable and reusable materials means all Construction or Demolition material that fits within any of the following categories:

- A. Masonry building materials including all products generally used in construction including, but not limited to asphalt, concrete, rock, stone, and brick.
- B. Wood materials including all dimensional lumber, fencing, or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated, or painted.
- C. Vegetable 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.
- D. Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames, and fences.
- E. Roofing materials including wood shingles as well as asphalt, stone, and slate based roofing material.
- F. Salvageable materials includes all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs, and appliances.
- G. Any other construction or demolition debris that is non-hazardous and available for recycling or reuse.

**18.60.040 Minimum Construction and Demolition Waste Diversion requirements.**

- A. All Covered Projects shall reuse, recycle, or Divert the minimum percentage amount of designated recyclable and reusable materials as set forth by State law and regulations. The 2016 CALGreen (Part 11 of Title 24, California Code of Regulations) requires a minimum diversion of 65%, which is expected to increase to 75% for the 2019 edition that will be applicable in 2020.
- B. Every person engaging in any Construction or Demolition in connection with a Covered Project shall comply with the requirements of this chapter.

**18.60.050 Covered Projects.**

- A. All construction, demolition, addition, alteration, and remodel Projects that generate Construction and Demolition Waste within the city requiring a permit

are required to divert the minimum percentage amount of designated recyclable and reusable materials from landfills. Concurrent permits at the same site are considered "one" Project for the purposes of this chapter.

- B. Documentation and diversion requirements for city-sponsored Construction and Demolition Projects shall be included in the Project contract with the city. These Projects shall only be considered Covered Projects if the city identifies them as such on a project-by-project basis. Typically, a city sponsored Project would only be designated as a Covered Project if the city's Project contractor does not contract for solid waste handling services with the authorized franchise waste hauler of the Garden Grove Sanitary District or the City.

**18.60.060 Security Deposit and Waste Reduction and Recycling Plan required.**

- A. Except as otherwise specified in this chapter, each Applicant who applies for a building or an encroachment permit for a Covered Project shall submit a Waste Reduction and Recycling Plan as prescribed by the C&D Compliance Official. No building permit, encroachment permit, or an exemption is issued for Covered Projects unless a Waste Reduction and Recycling Plan has been approved by the C&D Compliance Official.
- B. Except as otherwise specified in this chapter, each Applicant who applies for a building or an encroachment permit for a Covered Project, shall remit a security deposit to the C&D Compliance Official or his/her designee in the amount established by resolution of the City Council. The security deposit is remitted at the same time the permit application is filed, and is in the form of cash or cash equivalent such as a cashier's check or credit card payment to the city.

**18.60.070 Exemptions.**

Neither a Waste Reduction and Recycling Plan nor a security deposit is required for the following:

- A. Work for which only a plumbing permit, only an electrical, or only a mechanical permit is required.
- B. Seismic tie-down projects.
- C. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
- D. Installation of pre-fabricated accessories such as signs or antennas where no structural building modifications are required.

- E. Other work that the C&D Compliance Official determines will not produce Construction or Demolition Waste.
- F. City-sponsored projects.

An Applicant may file with the C&D Compliance Official an application for exemption which shall include the grounds for an exemption. The C&D Compliance Official shall determine if the exemption complies with this section.

**18.60.080 Refund of security deposit.**

- A. The C&D Compliance Official may authorize the refund of any security deposit, which was erroneously paid or collected.
- B. The C&D Compliance Official may authorize the refund of any security deposit when the building permit application is withdrawn or cancelled before any work has begun.
- C. The C&D Compliance Official may authorize the refund of a security deposit when the Applicant has satisfactorily submitted the Construction and Demolition Waste Recycling and Disposal Report Summary as identified in Section 18.60.140, and at least the minimum diversion requirement is met.
- D. If the C&D 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. The C&D Compliance Official may authorize a partial refund of a security deposit when less than the minimum diversion requirement is met. The partial refund shall not exceed that portion of the security deposit that is in the same ratio as the demonstrated amount of diverted waste.

**18.60.090 Forfeiture of security deposit.**

Applicants shall forfeit the security deposit to the city under the following circumstances:

- A. If the C&D Compliance Official determines that the Applicant has not made a good faith effort to comply with this chapter.
- B. If the applicant fails to submit the documentation required by Section 18.60.060 and 18.60.140 within the required time period.
- C. Upon sixty (60) days after a permit's expiration date.

**18.60.100 Use of security deposits.**

Moneys received by the city as security deposits are used only for:

- A. Payment of security deposit refunds.
- B. Administrative costs of the program established by this chapter not covered by the application fee.
- C. Programs to Divert from landfill disposal the waste from Construction, Demolition, and alteration Projects, and other recycling programs.
- D. Programs whose purpose is to develop or improve the infrastructure needed to Divert from landfill disposal the waste from Construction, Demolition, and alteration projects, and other recycling programs.

**18.60.110 Diversion of waste.**

For the purposes of this chapter, "diverted" or "diversion" means a reduction of the amount of waste being disposed in landfills by any of the following methods:

- A. Use of new construction methods, as approved by the C&D Compliance Official, that reduce the amount of waste generated.
- B. On-site re-use of the waste.
- C. Delivery of the waste from the site to a certified recycling facility.
- D. Other methods as approved by the C&D Compliance Official.
- E. All of the waste diversion methods which may qualify for a refund of a security deposit are subject to the reasonable conditions specified by the C&D Compliance Official.

**18.60.120 Certified recycling facilities.**

For the purposes of this chapter, a certified recycling facility means a recycling, composting, materials recovery, or re-use facility which (a) has obtained all applicable federal, state, and local permits; (b) is in full compliance with all applicable regulations; and (c) diverts from landfill disposal the minimum percentage established in this chapter of all incoming waste from Construction and Demolition activities. The C&D Compliance Official may maintain a list of certified recycling facilities. Any facilities not included in the list maintained by the C&D Compliance Official shall first be approved by the C&D Compliance Official before being accepted as a certified recycling facility for purposes of compliance with the requirements of this chapter.

**18.60.130 Application fee.**

As a part of any application for, and prior to the issuance of, any building or demolition permit that involves the creation of Construction or Demolition material, every Applicant for Covered Projects, unless exempt, shall pay to the city a cash fee sufficient to compensate the city for all expenses incurred in reviewing the Waste Reduction and Recycling Plan and reviewing performance of the plan. The amount of this fee shall be established by resolution of the City Council.

**18.60.140 Reporting.**

- A. Demolition Projects. Within sixty (60) days following the completion of Demolition of a Covered Project, the Applicant shall, as a condition precedent to release of the security deposit, submit documentation to the C&D Compliance Official reporting on compliance with the diversion requirements of this chapter. The documentation shall consist of a final completed Construction and Demolition Waste Recycling and Disposal Report Summary 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 certified recycling facilities, recycling companies or contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the Project have been Diverted or are to be recycled, reused, salvaged, or otherwise disposed of.
- B. Construction Projects. Within sixty (60) days following the completion of Construction of a Covered Project, the Applicant shall, as a condition precedent to release of the security deposit, submit documentation to the C&D Compliance Official reporting on compliance with the diversion requirements of this chapter. The documentation shall consist of a final completed Construction and Demolition Waste Recycling and Disposal Report Summary 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 certified recycling facilities, recycling companies or contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the Project have been Diverted or are to be recycled, reused, salvaged, or otherwise disposed of.
- C. Demolition and Construction Projects. If a project involves both Demolition and Construction, the report and documentation for the Demolition Project must be submitted to, and approved by, the C&D Compliance Official before issuance of a building permit for the Construction Project. If the Applicant has not met the diversion requirement for Demolition, the C&D Compliance Official may, in addition to other remedies set forth in this chapter, require a higher percentage of diversion for Construction than that established by State law or regulation, provided that the higher percentage for Construction is no higher



than the amount necessary to cover the shortfall in diversion from Demolition. In the alternative, the Applicant may submit a letter certifying that no designated recyclable or reusable materials were generated from the Project. In which case, the certification shall be subject to verification by the C&D Compliance Official.

#### **18.60.150 Universal Waste Disposal.**

Universal Waste (such as batteries, electronic waste, electronic lamps, cathode ray tubes/glass, non-empty aerosol cans) shall be diverted from landfills and disposed of in accordance with State laws and regulations.

#### **18.60.160 Appeal.**

Notwithstanding any provision of this Code to the contrary, an Applicant may appeal to the City Manager any decision of the C&D Compliance Official under this chapter. Notice of appeal from the decision of the C&D Compliance Official must be filed in writing with the City Manager's Office within ten (10) calendar days of the date of the decision being appealed. The notice of appeal shall set forth in concise language that particular decision or decisions complained of and the reason why the person feels aggrieved thereby. Failure to file a written notice of appeal within the time prescribed herein constitutes a waiver of any objection to the decision(s) of the C&D Compliance Official and such decision(s) shall be final; otherwise the decision of the City Manager is final. The City Council may establish an application fee by resolution to defray the costs of processing appeals.

#### **18.60.170 Violations.**

In addition to the forfeiture of the security deposit per section 18.60.090 of this chapter, violations of this chapter are punishable per Chapters 1.04 and/or 1.22 of this code.

SECTION 2: If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 3: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the \_\_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE)

I, TERESA POMEROY, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on January 22, 2019, with a vote as follows:

AYES:	COUNCIL MEMBERS:	(7)	BRIETIGAM, O'NEILL, NGUYEN T., BUI, KLOPFENSTEIN, NGUYEN K., JONES
NOES:	COUNCIL MEMBERS:	(0)	NONE
ABSENT:	COUNCIL MEMBERS:	(0)	NONE