

ORDINANCE NO. 3166

ORDINANCE OF THE CITY OF CHULA VISTA ADOPTING
AMENDMENTS TO CHULA VISTA MUNICIPAL CODE
SECTIONS 8.25.020 DEFINITIONS AND 8.25.095 –
CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

The City Council of the City of Chula Vista does ordain as follows:

SECTION I. That Section 8.25.020.06 – Definitions, of the Chula Vista Municipal Code, is hereby amended to read as follows:

06. “Diversion requirement,” means the diversion of 100 percent of inert waste, to include asphalt, concrete, bricks, tile, trees, stumps, rocks, and associated vegetation and soils resulting from land clearing, and not less than 50 percent of the remaining waste generated, via reuse or recycling, unless a partial or full diversion exemption has been granted pursuant to CVMC 8.25.095, in which case the diversion requirement shall be the maximum feasible diversion rate established by the Waste Management Report Compliance Official for the project.

SECTION II. That Section 8.25.095 – Construction and Demolition Debris Recycling, of the Chula Vista Municipal Code, is hereby amended to read as follows:

A. Projects.

1. Covered Projects. The following project categories are covered projects and must comply with this section:

a. Any project requiring a permit for demolition or construction, with a project valuation of \$20,000 or more, unless defined as a non-covered project in subsection (A)(3) of this section.

b. Any sequenced developments, such as housing subdivision construction or subdivision demolition, must be considered as a project in its entirety for purposes of this section, and not as a series of individual projects.

c. Any individually built single-family home.

2. City-Sponsored Projects. All City construction and demolition projects shall be considered covered projects and shall submit a waste management report to the City Manager or designee prior to issuance of any construction or demolition permits.

3. Non-Covered Projects. A performance deposit and waste management report shall not be required for the following:

- a. Work for which a construction or demolition permit is not required.
- b. Roofing projects that do not include tear-off of existing roof.
- c. Work for which only a plumbing, only an electrical, or only a mechanical permit is required.
- d. Seismic tie-down projects.
- e. Projects less than 10,000 square feet, where no structural building modifications are required.
- f. Emergency required to protect public health and safety.

B. Submission of Waste Management Report.

1. Construction and Demolition Waste Management Report Forms. Applicants for any covered project shall complete and submit a construction and demolition waste management report on a Waste Management Report form (WMR) approved by the City for this purpose. The purpose of the WMR is to illustrate how the applicant plans to comply with the diversion requirements per CVMC 8.25.020(O6). Upon project completion, the WMR will illustrate how the applicant complied with the diversion requirements. The WMR shall indicate all of the following:

a. Part 1 of the WMR shall be submitted for review and approval prior to issuance of a construction or demolition permit. The WMR will identify the type of materials expected to be generated at the project site and the anticipated end uses or end markets (recycled, reused on site, salvaged, or disposed.) Part 1 of the WMR shall include:

- i. The type of project;
- ii. The total square footage of the project;
- iii. The estimated generation of construction or demolition debris by material type.

b. Upon project completion, the applicant will submit Part 2 of the WMR and shall indicate all of the following:

- i. The type of project;
- ii. The total square footage of the project;

- iii. The actual volume or weight of construction and demolition debris recycled, by material type;
- iv. The actual volume or weight of construction and demolition debris reused or salvaged, by material type;
- v. The actual volume or weight of construction and demolition debris disposed of in a landfill;
- vi. The actual volume or weight of construction and demolition debris recycled at a construction and demolition debris recycling/processing center;
- vii. The vendors or facilities that the applicant used to collect, process, or receive the construction and demolition debris.

In estimating the volume or weight of materials identified in the WMR, the applicant shall use the standardized conversion rates established and approved by the City for this purpose or actual weight tickets.

2. Initial Application. Notwithstanding any other provision of this code, no construction or demolition permit may be issued until the initial construction and demolition waste management report has been approved by the WMR Compliance Official. The WMR Compliance Official will respond to the applicant's WMR submittal within 10 business days with an approval, denial or request for clarification. If the WMR Compliance Official does not respond within 10 business days, the applicant should notify the Official. After notification by the applicant, the Official will then have three business days to complete the review. If the review is not completed within three business days after the notification, the deposit requirement will be waived.

3. Amount of Performance Deposit. The applicant for any covered project shall submit to the City a performance deposit, with the exception of City-sponsored projects and individually built single-family homes. The amount of the performance deposit shall be calculated as the lesser of three-quarters of one percent of the total project cost for new construction and one and one-half percent of the total project costs for demolition projects or \$30,000 maximum. Acceptable forms of payment include cash, money order, check, or surety bond. All bonds shall be in the form prescribed by the City and by such sureties which are admitted insurers in the state of California, are subject to regulation by the Department of Insurance, and which satisfy all state requirements. The City shall not accept a surety bond for any project with a performance deposit calculated at \$10,000 or less.

Performance deposit funds in the form of cash, money order, or check will be placed in a secured account, subject to interest. The performance deposit and accrued interest shall be returned to the applicant upon acceptance of proof of compliance in full. If partial compliance, the performance deposit and associated interest will be refunded on a prorated basis dependent on the degree of compliance. The City will retain the interest on any deposit funds not refunded.

4. Documentation. Within 30 days after demolition is completed (if a demolition permit only) or 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 phased project of any covered project, the applicants shall submit to the WMR Compliance Official documentation that it has met the diversion requirement for the project, unless applicant has been granted an exemption pursuant to subsection (C) of this section. The documentation shall include all of the following:

- a. Receipts from the vendor or facility that received each material, showing the actual weight or volume of that material;
- b. A copy of the completed waste management report form, in its entirety; photographs and narrative documentation of the applicant's reuse activities.

5. Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all construction, renovation and demolition waste diverted for reuse or disposed of is measured and recorded using the most accurate method of measurement available. To the extent practical, all construction, renovation and demolition waste shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction, renovation and demolition waste 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 rates established by the conversion rates table approved by the City for this purpose. Conversion rate tables will be included with the waste management report form.

6. Determination of Compliance and Release of Performance Deposit. The WMR Compliance Official shall review the information submitted under this section and determine whether the applicant has complied with the diversion requirement, as follows:

- a. Compliance. If the WMR Compliance Official determines that the applicant has fully complied with the diversion requirement applicable to the project, he or she shall cause the release of the performance deposit to the applicant within 30 days of the applicant's submission of the documentation required under this

section. If the applicant has complied in part, a portion of the performance deposit will be withheld. The amount withheld will be proportional to the percentage of materials that are not recycled/diverted.

b. Noncompliance. If the WMR Compliance Official determines that the applicant failed to submit the documentation within the required time period, then the performance deposit shall be forfeited to the City. All forfeited and/or unrecovered funds shall be used for waste reduction and recycling activities.

C. Exemptions.

1. 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 request an exemption at the time that he or she submits the WMR. The applicant shall indicate on the WMR 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.

2. Meeting with WMR Compliance Official. The WMR 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.

3. Granting of Exemption. If the WMR 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 WMR submitted by the applicant. The WMR Compliance Official shall return a copy of the WMR to the applicant marked "Approved with Exception." The applicant shall then be responsible for diverting the revised rate noted by the WMR Compliance Official on the approved WMR, in compliance with the provisions of this section.

4. Denial of Exemption. If the WMR 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 resubmit a WMR form in full compliance with this section. If the applicant fails to resubmit the WMR, or if the resubmitted WMR does not comply with this section, the WMR Compliance Official shall deny the WMR.


D. Appeals.

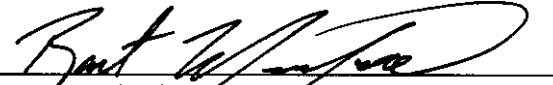
Appeals of a determination made by the WMR Compliance Official under this section shall be made to the City Manager or designee. The appeal shall be in writing and filed with the City Clerk within 10 business days of issuance of the WMR Compliance

Official's decision. The appeal shall be limited to the following issues: (1) the granting or denial of an exemption; and (2) the amount of security to be released. The decision of the City Manager or designee shall be final. (Ord. 3141 § 1, 2009; Ord. 3118 § 1, 2008; Ord. 3116 § 1, 2008; Ord. 3105 § 1, 2008).

Presented by

Approved as to form by


Richard A. Hopkins
Director of Public Works

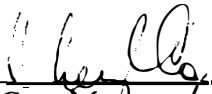

Bart C. Miesfeld
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 9th day of November 2010, by the following vote:


AYES: Councilmembers: Bensoussan, Castaneda, McCann, Ramirez and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None


Cheryl Cox, Mayor


ATTEST:


Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3166 had its first reading at a regular meeting held on the 2nd day of November 2010 and its second reading and adoption at a regular meeting of said City Council held on the 9th day of November 2010; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

December 7, 2010
Dated


Donna R. Norris, CMC, City Clerk