

Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: January 27, 2014

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE TITLE 8, CHAPTER 8.62, CONSTRUCTION AND DEMOLITION WASTE MANAGEMENT ORDINANCE, TO REFLECT CHANGES IN STATE REQUIREMENTS AND CITY GOALS.

TITLE OF PROPOSED ORDINANCE

AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE TITLE 8, CHAPTER 8.62, CONSTRUCTION AND DEMOLITION WASTE MANAGEMENT ORDINANCE, TO REFLECT CHANGES IN STATE REQUIREMENTS AND CITY GOALS.

PURPOSE OF ORDINANCE

At its meeting on October 28, 2013, the City Council directed the City Attorney's Office to draft this ordinance as requested by the Department of Public Works. This Ordinance is required to comply with recent changes to the California Green Building Standards Code (CALGreen), administered by the California Building Standards Commission, which went into effect January 1, 2014. Requisite changes include lowering the square footage thresholds for applicable construction and demolition projects and expanding the scope of the ordinance to include residential remodeling projects. Also, to support the 75% waste diversion initiative of the State's AB 341, effective July 1, 2012, as well as the City's Zero Waste Goals, the waste diversion requirement needs to be raised to 75%. Other procedural changes needed to update the ordinance include: correcting omissions from the original ordinance; clarifying definitions and requirements; making deadlines stated in the ordinance more practical; and providing for the development of administrative rules and regulations.

REASON WHY LEGISLATION IS NEEDED

New state requirements necessitate changes to the applicable project thresholds specified by the Construction and Demolition Waste Management Ordinance. Additionally, to support the 75%

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MEETING OF ~~01/27/2014~~

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waste diversion initiative of the State's AB 341, effective July 1, 2012, and the City's Zero Waste goals, the Department of Public Works recommends the project waste diversion requirement be increased to 75%. Finally, since the ordinance has not been revised since its adoption in 2002, a general update is needed to clarify program requirements, increase the program's effectiveness, and streamline ordinance administration

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

Adoption of the ordinance will increase the number of building projects required to recycle construction and demolition debris. As a result, staff of the Permit Division of the Department of Planning and Community Development will need to provide more education and assistance to permit applicants during the plan check process. The Department of Finance will also receive and process more deposits and refunds with the additional number of building projects covered by the ordinance.

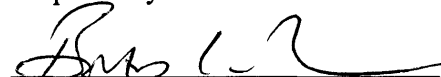
FISCAL IMPACT

The fiscal impacts associated with adoption of this Ordinance are estimated to be an additional permit revenue of approximately \$30,000 annually in non-refundable administrative fees which will offset a portion of the additional staff time spent administering the ordinance. Amendments to the Adopted FY 2014 General Fee Schedule will be presented to the City Council for approval later in the year.

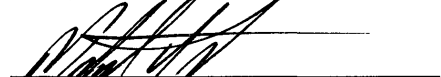
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Brad L. Fuller
Assistant City Attorney

Concurrence:


Michael J. Beck
City Manager

Introduced by: _____

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING
CHAPTER 8.62 OF THE PASADENA MUNICIPAL CODE, THE
CITY’S CONSTRUCTION AND DEMOLITION WASTE
MANAGEMENT ORDINANCE, TO COMPLY WITH RECENT
CHANGES IN STATE LAW AND TO MODERNIZE THE
CITY’S ORDINANCE**

WHEREAS, the City of Pasadena (“City”) has established the “Construction and Demolition Waste Management Ordinance” which requires applicants for permits to comply with state and local statutory goals and policies designed to reduce landfill; and

WHEREAS, the City desires to amend the current Construction and Demolition Waste Management Ordinance to comply with the requirements set forth in recent changes to laws adopted by the State of California; and

WHEREAS, the State of California recently enacted changes to the California Green Building Standards Code (CalGreen) which tighten standards on construction waste and increase required diversion rates to 75%; and

WHEREAS, the City has previously adopted Zero Waste Goals the achievement of which will be enhanced by raising the waste diversion rate for applicable construction, remodeling, and demolition projects to 75%; and

WHEREAS, the City’s current Construction and Demolition Waste Management Ordinance (Chapter 8.62 of the Pasadena Municipal Code) is in need of modernization which will, among other things, correct omissions from the original ordinance, clarify definitions and requirements, make deadlines stated in the ordinance more practical, and authorize the Public Works Director to adopt administrative rules and regulations after posting proposed rules and regulations and reviewing comments on the same.

NOW THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding cost of publication, will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

Ordinance No. _____ amends Chapter 8.62 (Construction and Demolition Waste Management Ordinance) of the Pasadena Municipal Code to conform to recent change to the California Green Building Standards Code by lowering the square footage thresholds for applicable construction and demolition projects and expanding the scope of the ordinance to include residential remodeling projects and by raising the waste diversion requirement to 75%. Additional amendments update the ordinance including correcting omissions, clarifying definitions and requirements, making deadlines stated in the ordinance more practical, and providing for the development of administrative rules and regulations.

Ordinance No. _____ shall take effect 30 days following its publication by title and summary.”

SECTION 2. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.015 is amended to read:

“The purpose of the ordinance codified in this chapter is to reduce landfill waste by requiring an applicant for every covered project to divert a minimum of 75% of the construction and demolition debris resulting from that project in compliance with state and local statutory goals and policies and to create a mechanism to secure compliance with the stated diversion requirement.”

SECTION 3. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.020 is amended to read:

B. “Completion” means the earliest of the following dates: the date a temporary certificate of occupancy is issued by the city for a project, the date a certificate of occupancy is issued by the city for a project, the date the final city inspection approving the project is completed, or the date on which a permit for

the project expired or that such a permit is withdrawn or cancelled. For demolition only projects, “completion” means the date that is 30 days after the permit was issued.”

K. "Diversion requirement" means the diversion of a minimum of 75% of the total construction and demolition debris generated by a project, or the lower percentage requirement granted by exception pursuant to Section 8.62.080.

M. "Performance security" means cash, money order, certified or cashiers' check, or credit card charge.

SECTION 4. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.030 is amended to read:

A. Unless otherwise exempt under Section 8.62.035, projects by the city or by any applicant meeting the following thresholds shall be considered covered projects, shall meet the diversion requirement and shall comply with all provisions of this chapter:

1. All residential additions;
2. Tenant improvements of 1,000 square feet or more of gross floor area;
3. New structures of 120 square feet or more of gross floor area;
4. All residential alterations and remodels;
5. All demolitions; and
6. All city public works and city public construction projects which are awarded pursuant to the competitive bidding procedure established by Chapter 4.08 of this code.”

SECTION 5. Pasadena Municipal Code, Title 8, Chapter 8.62, is amended to read:

The applicant for a covered project shall divert a minimum of 75% of the construction and demolition debris resulting from the project.

SECTION 6. Pasadena Municipal Code, Title 8, Chapter 8.62, is amended by adding a new Section 8.62.032 to read:

8.62.032 – Administrative Rules and Regulations.

The director may adopt administrative rules and regulations not inconsistent with provisions of this chapter and state law as needed for the purpose of carrying out and enforcing the payment, collection and remittance of the fees herein imposed, clarifying any of the administrative requirements of this chapter, specifying the types of diversion activities and facilities that meet the requirements of this chapter and establishing frequency and protocol of city regulatory inspections and overall compliance monitoring. A proposed rule or regulation shall be posted in the Permit Center, providing notice that it is to be adopted no earlier than 21 calendar days from the date on the posted notice and indicating the manner in which written comments may be provided to the director. A copy of the final adopted rule or regulation shall be posted in the Permit Center no later than 10 days prior to the effective date of the rule or regulation. A copy of all adopted administrative rules and regulations shall be on file in the director's office.

SECTION 7. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.035 is amended to read:

The following projects are exempt from the requirements of this chapter:

- A. Immediate or emergency demolition required to protect the public health, safety or welfare, as determined by any public safety official or code compliance officer of the city given prior to demolition.
- B. Projects which consist solely of either one-story accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15 square meters) or a swimming pool.
- C. A project for which an exception, conditional use permit or design review approval has been obtained from the city prior to the effective date of this ordinance.
- D. A project for which a valid building permit has been lawfully issued by the city prior to the effective date of this ordinance.
- E. A project for which only a plumbing, electrical or mechanical permit is required.
- F. A project which may technically fall within this chapter, but due to special circumstances, less than 4 cubic yards of construction and/or demolition debris is anticipated to be generated as determined by the waste management plan compliance official.
- G. A project of city public works or city public construction for which the notice inviting bids has been published pursuant to Chapter 4.08

of this code prior to the effective date of the ordinance codified in this chapter.

SECTION 8. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.040 is amended by adding a new subsection number 6 to read:

6. Any additional information that may be required by administrative rules and regulations adopted by the director pursuant to Subsection 8.62.032 (B) of this chapter.

SECTION 9. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.050 is amended to read:

8.62.050 – Administrative review fee and performance security.

Applicants for permits for a covered project shall submit a non-refundable administrative review fee and a refundable performance security. The rate for the administrative review fee and the performance security shall be set by resolution of the city council. The waste management plan compliance official may waive the performance security if the total performance security would be 50 dollars or less. The deposit may be refunded without interest, in total, upon the applicant's timely submission of a final report as outlined in 8.62.070 and proof of satisfaction by the waste management plan compliance official that no less than 75% of the debris generated from the applicable project has been diverted from disposal and has been recycled, reused or stored for later reuse or recycling. The deposit shall be forfeited entirely if applicant fails to comply with the requirements of this chapter. No refund shall be authorized when the submittal date of the completed final report is beyond 180 days from the date a covered project has been completed.

SECTION 10. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.060 is amended to read:

B. Approval. Approval of the waste management plan shall be based upon the following findings by the waste management plan compliance official.

1. All of the information required by Section 8.62.040 has been provided;
2. The plan establishes a mechanism such that the diversion requirement shall be met; and
3. The applicant has submitted an administrative review fee and performance security in compliance with Section 8.62.050

C. Denial. If the waste management plan compliance official denies the waste management plan, then the grounds for denial shall be clearly stated, in writing.

SECTION 11. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.070

is amended to read:

Final Report. No later than 90 days from the completion of a covered project, the applicant shall submit a compliance reporting form, under penalty of perjury, to the waste management compliance official. The form shall include the following information:

1. The dates demolition and construction actually commenced;
2. The actual volume or weight of construction and demolition debris, listed for each material;
3. The actual volume or weight of construction and demolition debris that was diverted, listed for each material;
4. A specification of the method used to determine the volumes and weights and a certification that the method used was the most accurate, commercially reasonable method available; and
5. Original receipts from all vendors and facilities which collected or received construction and demolition debris, indicating actual weights and volumes received by each.
6. Any additional information that may be required by administrative rules and regulations adopted by the director pursuant to Subsection 8.62.032 (B) of this chapter.

SECTION 12. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.075

is amended to read:

No later than 15 business days from the date a complete compliance reporting form is submitted, the waste management compliance official shall determine whether the applicant has complied with the requirements of this chapter, and the following shall occur:

- A. On a determination of compliance with the requirements of this chapter, the performance security shall be returned to the applicant within 30 days of determination.
- B. On a determination of non-compliance with the requirements of this chapter, the performance security shall be forfeited in total and the applicant shall be notified of the forfeiture in writing within 30 days of determination. Prosecution or other administrative proceedings may be

recommended, or the responsible official may make a determination not to commence proceedings.

SECTION 13. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.085 is amended to read:

The waste management plan compliance official may inspect and monitor all covered projects to determine the levels of actual diversion and validate the information provided in the waste management plan and final report.

SECTION 14. Pasadena Municipal Code, Title 8, Chapter 8.62, Section 8.62.095 is amended to read:

It shall be unlawful and a violation of this chapter to do any of the following:

- A. To willfully fail to comply with any provision of this chapter.
- B. To provide false or misleading information in any plan, report or document required by this chapter.
- C. To fail to meet the diversion requirement for any covered project.
- D. To fail to comply with any approved plan, report or document required by this chapter.

SECTION 15. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 16. This ordinance shall take effect 30 days following its publication by title and summary.”

Signed and approved this _____ day of _____, 2014

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY the foregoing ordinance was adopted by the City Council and the City of Pasadena at its meeting held this _____ day of _____, 2014, by the following vote:

AYES:

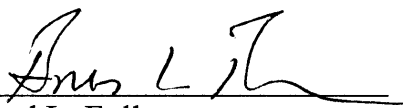
NOES:

ABSENT:

ABSTAIN:

Mark Jomsky, CMC
City Clerk

APPROVED AS TO FORM:



Brad L. Fuller
Assistant City Attorney