

Introduced by: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 8, CHAPTER 8.62 OF THE PASADENA MUNICIPAL CODE, PERTAINING TO THE CITY'S CONSTRUCTION AND DEMOLITION WASTE MANAGEMENT PROGRAM

The People of the City of Pasadena ordain as follows:

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

“Summary

This proposed ordinance amends Chapter 8.62 of the Pasadena Municipal Code, the Construction and Demolition Waste Management Ordinance, by updating the deposit and refund processes for the City's Construction and Demolition Waste Management Program.

Ordinance No. _____ shall take effect 30 days from its publication.”

SECTION 2. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.020 (Definitions) is amended to read as follows:

“For the purposes of this chapter, the following definitions shall apply:

- A. “Administrator” means the director of public works or their designated representative who shall administer, implement, and enforce some or all of this chapter.
- B. “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 any permit, as defined in this chapter, and who is, therefore, responsible for meeting the requirements of this chapter.
- C. “Cancelled permit” means a building or demolition permit which was previously issued by the city, where the applicant has decided not to continue with the project authorized by the permit, and the applicant cancels the permit before the expiration of the permit.

- D. "Construction" means the building or enlargement of any structure, or any portion thereof, and includes, without limitation, alterations or improvements to an existing structure.
- E. "Construction and demolition debris" means the excess or discarded materials which are to be removed from a site during or after the construction or demolition of any structure, fence, wall or paving.
- F. "Conversion rate" means the rate set forth in the standardized conversion rate table for use in estimating the volume or weight of construction and demolition debris, approved by the director of public works and filed with the city clerk.
- G. "Covered project" means any project meeting the thresholds set forth in Section 8.62.030.
- H. "Demolition" means the razing, tearing down or wrecking of any structure, wall, fence or paving, whether in whole or in part, whether interior or exterior.
- I. "Deposit" means cash, money order, certified or cashier's check, or credit card charge.
- J. "Deconstruct" and "deconstruction" mean the careful and systematic dismantling of a structure in order to salvage materials for diversion.
- K. "Director" means the director of public works who is hereby designated to issue a compliance order or an administrative citation to enforce this chapter pursuant to Chapters 1.25 or 1.26, respectively, of this code.
- L. "Divert" and "diversion" means the reuse of construction and demolition debris to avoid disposal in a landfill.
- M. "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.
- N. "Expired permit" means a building or demolition permit which has lapsed and has not been extended or re-instated, and where the permitted work was never commenced.
- O. "Hearing officer" means any person appointed by the director to preside as an impartial hearing officer over appeals under this chapter.
- P. "Paving" means driveways, walkways, parking areas, streets and sidewalks.

- Q. "Permit" means any building or demolition permit.
- R. "Project" means any proposal for new or changed use, or for new construction, alteration or enlargement of any structure, that requires a permit from the City of Pasadena.
- S. "Recycling" and "reuse" mean the process of collecting, sorting, cleansing, treating, and reconstituting construction and demolition debris that would otherwise be disposed of in a landfill, for use as raw material for new, reused, or reconstituted products which meet industry standards.
- T. "Structure" means anything constructed or erected that requires a location in the ground, including a building or a swimming pool, but not including a fence or a wall used as a fence, or driveways or walkways.
- U. "Waste management plan" means an application packet approved by the administrator for the purpose of reviewing project compliance with the provisions of this chapter.

SECTION 2. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.030 (Application of chapter to covered projects) is amended to read as follows:

"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 new structures;
2. Non-residential additions of either (a) gross floor area of 1,000 square feet or more, or (b) tenant improvements of \$200,000 or more;
3. All residential additions;
4. All residential alterations and remodels with no increase in the building's conditioned area, volume, or size, where the value of the permitted work is \$20,000 or more;
5. All demolitions; and

6. All city public works projects, as defined by California Labor Code Section 1720, which are awarded pursuant to the competitive bidding procedure established by Chapter 4.08 of this code.

B. Compliance with the provisions of this chapter shall be listed as a condition of approval on all building or demolition permits issued for a covered project.”

SECTION 3. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.032 (Administrative rules and regulations) is amended to read as follows: “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 and city website, 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 and city website 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 4. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.035 (Projects exempt from chapter) is amended to read as follows: “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 of a structure solely used as a swimming pool or solar facilities, or grading work.
- 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 the ordinance codified in this chapter.
- D. A project for which only a grading, plumbing, electrical or mechanical permit is required.”

SECTION 5. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.040 (Waste management plan requirements) is amended to read as follows:

“All applicants for covered projects shall complete and submit a waste management plan as part of the application packet for a permit for the project. The waste management plan shall include the following information, calculated with the conversion rate, and shall be attested by the applicant, under penalty of perjury, as true and correct for all stated facts and as a best estimate based on all information reasonably available about the project, where all of the facts cannot be ascertained:

1. The estimated volume or weight of construction and demolition debris, listed for each material;
2. The estimated volume or weight of construction and demolition debris that can be diverted, listed for each material;
3. The estimated volume or weight of construction and demolition debris that will be landfilled as solid waste;
4. The identification of the city approved vendor or facility that will collect or receive the construction or demolition debris or that will deconstruct the structure;
5. The estimated date on which demolition or construction is to commence; and
6. Any additional information that may be required by administrative rules and regulations adopted by the director pursuant to Section 8.62.032 of this chapter.”

SECTION 6. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.050 (Administrative review fee and deposit) is amended to read as follows: “Applicants for permits for a covered project shall submit a non-refundable administrative review fee and a refundable deposit. The rate for the administrative review fee and the deposit shall be set by resolution of the city council. The deposit may be refunded without interest, in total, upon the applicant's timely submission of a final report as outlined in Section 8.62.070. Applicants must submit proof of meeting the diversion requirement to the administrator. The administrator shall determine whether sufficient waste 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.

SECTION 7. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.060 (Review of waste management plan) is amended to read as follows: “A. Time for Review. A waste management plan shall be approved or rejected within a reasonable time after a complete application is made, based on conditions reasonably necessary to meet the standards of this chapter. An approved waste management plan is required prior to issuance of a building permit.

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

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;
3. The applicant has complied with any other conditions imposed by the administrator reasonably necessary to meet with the standards of this chapter; and
4. The applicant has submitted an administrative review fee and deposit in compliance with Section 8.62.050.

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

SECTION 8. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.070 (Waste management plan compliance reporting) is amended to read as follows:

“A. Final Report. The applicant shall submit a compliance report, under penalty of perjury prior to final building permit or demolition permit inspection. The compliance report 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;
5. Original receipts from all vendors and facilities which collected or received construction and demolition debris, indicating the origin (city) of the debris and actual weights and volumes received by each; and
6. Any additional information that may be required by administrative rules and regulations adopted by the director pursuant to Section 8.62.032 of this chapter.

B. Expired permits. For expired permits, if the applicant has complied with this chapter, applicants may submit a written request for refund of the deposit no later than 90 days after the expiration date of the permit. If a conforming application is not received within that time, and for all other expired permits, the deposit shall be forfeited by operation of law 90 days after the expiration of the permit.

C. Cancelled permits. If a permit has been cancelled, the administrator shall refund the deposit upon the applicant's written request, if made within 90 days of permit cancellation, or the deposit shall be forfeited b operation of law.”

SECTION 9. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.075 (Release of deposit) is amended to read as follows:

“Within a reasonable time after a complete compliance reporting form is submitted, the administrator 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 and timely receipt of a written request for a refund, the deposit shall be returned to the applicant within 45 days of determination. If there is no written request for a refund within 90 days of compliance determination, the deposit shall be forfeited by operation of law.
- B. On a determination of noncompliance with the requirements of this chapter, the deposit shall be forfeited in total and the applicant shall be notified of the forfeiture in writing within 45 days of determination.”

SECTION 10. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.080 (Exception from compliance with this chapter) is amended to read as follows:

“Prior to commencing obtaining a permit, an applicant wishing relief from the requirements of this chapter may seek an exception, partial or complete, from the requirements of this chapter through the following process:

- A. Initiation. The exception process shall be initiated by the filing of a complete exception application with the administrator. The administrator shall determine the completeness of the exception application within a reasonable time.
- B. Decision on Application. Following consideration of the exception application, the administrator shall either make the required findings and take action on the application; or shall state why the findings cannot be made and deny the application. A decision on the application shall be issued prior to permit issuance, and the administrator shall notify the applicant.
- C. Findings. All of the following findings must be made prior to the approval of an exception:

1. There are exceptional or extraordinary circumstances or conditions applicable to the project that do not apply generally to similar projects;
2. Granting the application will not constitute a grant of special privilege inconsistent with limitations imposed on like projects; and
3. Cost to the applicant of strict compliance with this chapter is not the primary reason for granting the exception.”

SECTION 11. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.085 (Duties of waste management plan compliance official) is hereby deleted, in its entirety.

SECTION 12. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.090 (Appeal) is amended to read as follows:

“Any person or entity aggrieved by any decision or finding under the provisions of this chapter with respect to the completeness of a waste management plan compliance report, or to a decision on an application for an exception from compliance with this chapter, may appeal such decision or finding. An appeal must be filed within 5 (five) days after receipt of notice of any decision or finding by filing with the administrator a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than 30 (thirty) days after receipt of the letter of appeal, and payment of any appeal fee if set forth in the General Fee Schedule. Appellant shall be given at least 5 (five) days' notice of the time and place of the hearing. A hearing officer, shall give the appellant, and any other interested party, a reasonable opportunity to be heard, in order to show cause why the decision or finding should not be upheld. In all such cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision or finding appealed. At the conclusion of the hearing, the hearing officer shall issue a decision, which shall be final. The appeal process set forth in this section does not apply to administrative citations pursuant to Chapter 1.25 or to orders to comply pursuant to Chapter 1.26.”

SECTION 13. Pasadena Municipal Code, Title 8, Chapter 8.62 (Waste Management Plan for Certain Construction Projects within the City of Pasadena), Section 8.62.110 (Appeal), subdivision (C) is amended to read as follows:

“In addition to the penalty provisions of subsections (A) and (B) of this section, violations of this chapter may be subject to the administrative proceedings set forth in Chapters 1.25 and 1.26 of this code, including, but without limitation, civil penalties, late payment penalties, administrative fees, and other related charges as established by resolution of the city council.”

SECTION 14. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 15. This ordinance shall take effect 30 days from its publication.

Signed and approved this _____ day of _____, 2023.

Victor Gordo
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____ 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky
City Clerk

Approved as to form:



Javan N. Rad
Chief Assistant City Attorney