

ORDINANCE NO. 1639-NS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS AMENDING CHAPTER 3 OF TITLE 6 OF THE THOUSAND OAKS MUNICIPAL CODE TO ESTABLISH REGULATIONS FOR CONSTRUCTION AND DEMOLITION WASTE MANAGEMENT

WHEREAS, the California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires each local jurisdiction in the state to divert 50 percent of discarded materials from landfills or face possible fines up to \$10,000 a day for not meeting the 50 percent diversion goal; and

WHEREAS AB 341 (2011) (hereinafter, "AB 341") establishes a policy goal for the state of California that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020; and

WHEREAS, the California Green Building Standards Code (CalGreen), Part 11 of Title 24 California Code of Regulations, Sections 4.408 and 5.408 set minimum diversion requirements for construction and demolition waste debris; and

WHEREAS, the redevelopment of existing property has become more prevalent within the City and construction and demolition (C&D) debris has become a larger portion of the waste stream; and

WHEREAS, reusing and recycling C&D debris is essential to further the City's efforts to reduce landfill-bound waste and comply with AB 939.

NOW, THEREFORE, the City Council of the City of Thousand Oaks DOES ORDAIN as follows:

PART 1

Title 6, Chapter 3 of the Thousand Oaks Municipal Code entitled "Construction and Demolition Waste Management," is hereby amended to read as follows:

Chapter 3. Construction and Demolition Waste Management

Sec. 6-3.101 Purpose and Intent

The purpose of this Chapter is to establish regulations effectively reducing landfill-bound waste from construction and demolition activity by requiring applicants undertaking specific covered projects to divert, recycle, and/or salvage for reuse a minimum percentage (by weight) of the construction and demolition waste materials resulting from their projects, as defined and set forth by current CalGreen diversion requirements, goals and policies.

Sec. 6-3.102 Definitions

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "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 applicable permits, as defined in this Chapter, to undertake any construction, demolition, or renovation project within the City.

(b) "C&D debris recycling compliance official" means the Director or representative designated by the Director.

(c) "C&D debris recycling plan" means a written plan for recycling and/or reuse of project C&D debris prepared and submitted pursuant to Section 6-3.106 in a form approved by the Public Works Director or designee for the purpose of reviewing project compliance with this Chapter prior to project commencement.

(d) "C&D debris recycling report" means a completed form, and all supporting recycling and disposal facility weight tickets and records, submitted by an applicant for any covered project approved by the City for the purpose of compliance with this Chapter. This form is submitted after completion of a project.

(e) "Completion" means the earliest of the following dates: the date a certificate of occupancy is issued by the City for a covered project, the completion date of a covered project per final City inspection and approval, or, if no final approval is required, 30 calendar days following the date the work authorized by the permit(s) is completed, as determined by the Director.

(f) "Construction" means the building or enlargement of any structure, or any portion thereof, and includes without limitation alterations or improvements to an existing structure.

(g) "Construction and demolition debris" or "C&D debris" means the excess or discarded materials removed from a site during, or after, the construction, demolition, repair, remodeling or renovation of any pavement, residential building, commercial building, fence, wall or other structure.

(h) "Covered project" means any project meeting any one or more of the following thresholds:

- (1) All new construction of residential and/or non-residential structures requiring a permit, irrespective of gross floor area, cost or valuation;
- (2) All demolition of residential and/or non-residential structures requiring a permit, irrespective of gross floor area, cost or valuation;

- (3) Additions and alterations to residential buildings that increase the structures' conditioned area, volume, or size, and require a permit;
- (4) Additions and alterations to non-residential buildings of 1,000 square feet or greater and/or with a valuation of \$200,000 or more, and require a permit;
- (5) Any grading work requiring a permit, irrespective of cost, from which inert material will be removed from project site;
- (6) All City construction projects awarded pursuant to procurement policy and the competitive bid process defined by California state code.
 - (i) "Commingled facility" – Any facility that accepts commingled or mixed C&D debris and processes the materials for diversion.
 - (j) "Conversion rate" means the rate set forth in the standardized conversion rate table for use in estimating the volume or weight of C&D debris, approved by the California Department of Resources Recycling and Recovery (CalRecycle).
 - (k) "Deconstruct" and "deconstruction" means the careful and systematic dismantling of a structure in order to salvage materials for diversion.
 - (l) "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.
 - (m) "Designated recyclable and reusable materials" means all C&D debris described within any of the following categories:
 - (1) Masonry building materials, including all products generally used in construction including, but not limited to asphalt, concrete, rock, stone and brick.
 - (2) Wood materials including any and all dimensional lumber, fencing or construction wood not chemically treated, creosoted, CCA pressure treated, contaminated or painted.
 - (3) Vegetation material including trees, tree parts, shrubs, logs, brush, stumps or any other type of plants (i.e., "green waste") cleared from a site for construction or other use.
 - (4) Metals including all ferrous and nonferrous metal scrap such as, but not limited to, pipes, siding, window frames, door frames, hardware and fences.

- (5) Roofing materials including wood shingles as well as asphalt, clay, stone and slate based roofing material.
- (6) Salvageable materials include all salvageable materials and structures including, but not limited to, wallboard, doors, windows, hardware, fixtures, toilets, sinks, bath tubs and appliances.
- (7) Any other non-hazardous construction and demolition debris generated from a construction or demolition project that is available for recycling or reuse including, but not limited to, cardboard and paper fiber, glass, and mixed plastics.
- (n) "Director" means the Public Works Director.
- (o) "Divert" and "diversion" mean the reuse or recycling of C&D debris to avoid disposal in a landfill.
- (p) "Diversion requirement" means a minimum diversion percent of the total C&D debris generated by a covered project as defined and set forth by current CalGreen Code.
- (q) "Grading" means altering a land surface by cutting, filling and/or smoothing to meet a designated form and function.
- (r) "Inert material" means nonputrescible solid material including, without limitation, soil, rock, gravel, concrete, asphalt, brick, ceramics, metal and similar material not containing hazardous waste, radioactive waste, medical waste, soluble pollutants or decomposable matter.
- (s) "Paving" means driveways, walkways, parking areas, streets and sidewalks.
- (t) "Permit" means any building, grading, paving, encroachment or demolition permit.
- (u) "Project" means any proposal for grading, new construction or changed use, alteration, demolition, deconstruction or enlargement of any structure, requiring a permit from the City of Thousand Oaks.
- (v) "Recycling" and "reuse" means the process of collecting, sorting, cleansing, treating, and reconstituting C&D debris that would otherwise be disposed in a landfill for use as finished or raw material for new, reused, or reconstituted products meeting industry standards necessary for such use in the marketplace.
- (w) "Recycling facility" means a facility collecting specific types of C&D debris for reuse or recycling.

(x) "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, or reuse.

Sec. 6-3.103 Application of Article to Covered Projects

(a) Unless otherwise exempt under Section 6-3.105 ("exempt projects"), covered projects shall meet the diversion requirement defined and set forth by current CalGreen code and shall comply with all provisions of this Chapter.

(b) Compliance with the provisions of this Chapter shall be a condition of approval on all building, paving, grading, encroachment or demolition permits issued for a covered project.

Sec. 6-3.104 Required Diversion Rates

The applicant for a covered project shall divert a minimum percent of the total C&D debris resulting from the covered project as defined and set forth by current CalGreen Code.

Sec. 6-3.105 Exempt Projects

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.

(b) Single-family residential projects consisting solely of the installation of pre-fabricated accessories such as patio enclosures and covers, or antennas where no foundation or other structural building modifications are required;

(c) Work for which only a plumbing permit, an electrical permit, or a mechanical permit is required or any combination thereof;

(d) Seismic tie-down projects;

(e) Other work a C&D debris recycling compliance official determines will not produce significant amounts of C&D debris.

Sec. 6-3.106 C&D Debris Recycling Plan Requirements

Applicants for covered project permits shall complete and submit a C&D debris recycling plan as part of the permit application process. The C&D debris recycling plan shall be in a form approved by the Public Works Director or designee and 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:

- (a) The estimated weight of C&D debris listed for each material;
- (b) The estimated weight of C&D debris that can be diverted from the landfill listed by each material type;
- (c) The estimated weight of C&D debris that will be landfilled as solid waste;
- (d) The identification of a City-permitted franchise C&D waste hauler providing dumpster or roll-off box service in which to collect and transport C&D debris, and/or signed statement by the applicant that they will self haul C&D debris;
- (e) The identification of the waste or recycling facility to receive project C&D debris; and
- (f) The estimated dates on which grading, demolition or construction is to commence and be completed.

Sec. 6-3.107 Review of C&D Debris Recycling Plan

(a) Time for review. A C&D debris recycling plan shall be approved or denied no later than five (5) business days after a complete application is filed with the City. The approval may be based on imposed conditions reasonably necessary to meet the standards of this Chapter.

(b) Approval. Notwithstanding any other provision of this Chapter, no permit shall be issued for any covered project unless and until the C&D debris recycling plan has been approved, based upon the following findings by the C&D debris recycling plan compliance official.

- (1) All of the information required by Section 6-3.106 has been provided;
- (2) The plan establishes a mechanism ensuring the diversion requirement shall be met; and
- (3) A valid permitted franchise hauler is identified or the applicant certifies that they will self-haul materials.

(c) Denial. If the C&D debris recycling compliance official denies the C&D debris recycling plan, the grounds for denial shall be clearly stated in writing.

Sec. 6-3.108 C&D Debris Recycling Report Compliance

(a) Final Report. No later than 30 days from the completion of a covered project, the applicant shall submit a C&D debris recycling report, in a form approved by the Public Works Director or designee, signed under penalty of perjury, to the C&D debris recycling compliance official. The report shall include the following information:

- (1) The dates on which grading, building, paving, demolition and/or construction actually commenced and were completed;
- (2) The actual volume or weight of C&D debris, listed by specific material or if taken to a commingled recovery facility the weight of the commingled load and primary composition;
- (3) The actual volume or weight of C&D debris that was diverted, listed by specific material type or in the case of commingled C&D materials the aggregate weight of the materials and the amount that was disposed;
- (4) A specification of the method used to determine the volume and weights and a certification that the method used was the most accurate, commercially reasonable method available; and
- (5) Copies of receipts and/or weight tickets from all vendors and recycling facilities, which collected or received C&D debris, indicating and verifying actual weights and volumes received by each.

Sec. 6-3.109 Violations

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; or
- (c) To fail to meet the diversion requirement for any covered project as required by this Chapter.

Sec 6-3.110 Appeal

Any person or entity aggrieved by any decision or finding under the provisions of this Chapter with respect to approving, denying, or conditioning a C&D debris recycling plan, may appeal such decision, finding, or condition pursuant to Chapter 4 of Title 1 of the Thousand Oaks Municipal Code. An appeal must be filed with the City Manager's office within fourteen (14) days after

notification setting forth in writing the full facts, reasons and grounds for the appeal. The appeal shall include supporting documentary evidence and declarations signed under penalty of perjury. There shall be no hearing before the City Manager. In all such cases, the burden of proof shall be upon the appellant to show there was no substantial evidence or rational basis to support the appealed decision, finding, or condition. The City Manager shall make the final ruling on the appeal no more than thirty (30) business days from the date of filing.

Sec. 6-3.111 Misdemeanor; Separate Offenses.

(a) Misdemeanors. Any person who negligently or knowingly violates any provision of this Chapter, undertakes to conceal any violation of this Chapter, continues any violation of this Chapter beyond the date set for compliance after delivery of notice thereof, or has previously violated the same provision of this Chapter, may be charged with criminal misdemeanor for such violation.

(b) Separate offenses. Each day a violation continues unabated as ordered by the Director is a separate offense and separate violation. For violations of Section 6.3.109(c), the violation shall be considered to commence on the date when demolition or construction first commenced.

(c) Failure to file the required report will result in future C&D recycling plan authorizations being withheld until the responsible party complies with the provisions of this Article.

Sec. 6-3.112 Civil Remedies; Injunctions.

The Director may request that the City file a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this Chapter. Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this Chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, costs relating to restoration of the environment, attorney's fees, court costs, and all other expenses as authorized by law.

The remedies available to the City pursuant to the provisions of this Article shall not limit the right of the City to seek any other remedy that may be available by law.

PART 2
(Uncodified)

SEVERABILITY

If any section, subsection, clause or phrase in this ordinance or the application thereof to any person or circumstances is for any reason held to be invalid or unenforceable, that or those sections shall be deemed severed and the validity of the remainder of the ordinance or the application of such remaining provisions to any person or circumstances shall not be affected thereby.

PART 3
(Uncodified)

EFFECTIVE DATE

This Ordinance shall take effect on the thirty-first (31st) day following its final passage and adoption.

PASSED AND ADOPTED this 12th day of December, 2017.



Claudia Bill-de la Peña, Mayor
City of Thousand Oaks, California

ATTEST:



Cynthia M. Rodriguez, City Clerk

APPROVED AS TO ADMINISTRATION:



Andrew P. Powers, City Manager

APPROVED AS TO FORM:
Office of the City Attorney



Felicia Liberman, Assistant City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF VENTURA) SS.
CITY OF THOUSAND OAKS)

I, CYNTHIA M. RODRIGUEZ, City Clerk of the City of Thousand Oaks, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Ordinance No. 1639-NS that was introduced by said City Council at a regular meeting held November 28, 2017 and adopted by said City Council at a regular meeting held December 12, 2017 by the following vote:

AYES: Councilmembers Bill-de la Peña, Price, Adam, McCoy, and Mayor Fox

NOES: None

ABSENT: None

I further certify that said Ordinance No. 1639-NS was published as required by law in the VENTURA COUNTY STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Thousand Oaks, California.



Cynthia M. Rodriguez, City Clerk
City of Thousand Oaks, California

12/14/2017

Date Attested