

Ordinance No. 5472

Ordinance of the Council of the City of Palo Alto Amending Title 5 of the Palo Alto Municipal Code to Repeal Chapter 5.24 (Construction and Demolition Debris Diversion Facilities) and Add a New Chapter 5.24, Entitled Deconstruction and Construction Materials Management, to Establish Regulations Related to the Management of Deconstruction and Construction Debris and Materials

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

A. The process of demolition, construction, renovation and remodel of buildings and structures generates significant amounts of waste that is either disposed in landfills or combined into a mixed waste that then has to be processed and sorted. The disposal and burial of waste in landfills leads to an increase in greenhouse gas emissions, increase in carbon emissions, and substantial environmental impacts associated with building removal.

B. The practice of freely allowing project applicants, developers and contractors to combine the materials generated at construction and demolition sites into a mixed waste product encourages them to pay little attention to the quantity of the waste created from each construction and demolition project, the amount of waste that is disposed in landfills and the associated environmental impact. There is an opportunity to augment regulations to improve the effectiveness of reuse and recycling of construction site materials generated on projects within Palo Alto.

C. The deconstruction and source separation of construction and demolition related waste leads to handling discards as resources, not waste. It leads to highest and best use of materials, higher recovery levels, and greater recyclability of materials. Deconstruction also follows the waste management and zero waste hierarchy of reduce, reuse, recycle, and compost, and reduces the volume and toxicity of waste and materials.

D. The City of Palo Alto updated its Zero Waste Plan in 2018, with new provisions designed to help the City reach its goal of 95% diversion of materials from landfills by 2030, and 80% reduction of greenhouse gases by the same year. Waste from construction and demolition related activities represent over 40% of the waste from Palo Alto that is disposed in landfills, hampering Palo Alto from achieving zero waste.

E. Policies that promote deconstruction methods instead of demolition, and require materials to be source separated to maximize the salvage of building materials for reuse and to increase higher level of diversion of recyclable and compostable materials, will reduce the amount of landfilled waste, increase recovery of materials and reduce greenhouse gas emissions. These strategies are crucial for conserving resources and protecting the environment, and integral to Palo Alto's goal of zero waste.

SECTION 2. Chapter 5.24 of Title 5 (Construction and Demolition Debris Diversion Facilities) is hereby repealed and replaced in its entirety with a new Chapter 5.24 to read as follows:

Chapter 5.24
Deconstruction and Construction Materials Management

Sections:

- 5.24.010 Purpose
- 5.24.020 Definitions
- 5.24.030 Applicability
- 5.24.040 Salvage survey and reuse required
- 5.24.050 Deconstruction and source separation of materials
- 5.24.060 Material collection
- 5.24.070 No unauthorized containers
- 5.24.080 Exclusions
- 5.24.090 Administration by City Manager
- 5.24.100 Enforcement and penalties

5.24.010 Purpose

The accumulation, collection, removal and disposal of waste associated with construction, deconstruction and demolition activities must be controlled for the protection of the public health, safety and welfare, and the natural environment. State law addresses this need through the California Integrated Waste Management Act of 1989 and the California Green Building Code, which requires local governments to require fifty percent of construction debris be diverted from the landfill, and Senate Bill 1374, which requires annual reporting to the state on progress made in the diversion of construction related materials, including information on programs and ordinances implemented and quantitative data, where available. Required minimum diversion rates by project type are covered under the California Green Building Code and the City's local amendments in Title 16, Building Regulations, of this code. In 2016, the City adopted sustainability, waste diversion and climate action goals of 80% reduction in greenhouse gases and 95% diversion of materials from landfills by 2030. The City may adopt, implement, and enforce requirements, rules and regulations for local reuse and recycling of materials that are more stringent or comprehensive than California law, and this Chapter establishes local requirements to further both state law and the City's adopted policies.

This Chapter's goals are to implement best practice methods for separation, handling, and delivery of deconstruction and construction site materials to maximize the salvage of building materials for reuse, to reduce the amount of construction and deconstruction related materials disposed in landfills and to establish deconstruction and source separation requirements. The requirements of this Chapter are in addition to, the requirement in Chapter 16.14 of this code to achieve a specified diversion of materials generated from an applicable construction project.

5.24.020 Definitions

For purposes of this Chapter, terms defined in Chapter 5.20 shall have the same meanings in this Chapter 5.24. The following terms shall have the ascribed definition for the purposes of applying the criteria of this Chapter and other chapters as referenced.

- a. "Approved facility" means a reuse, recycling, composting, or materials recovery facility which the Director has determined can accept diverted materials, has obtained all applicable federal, state and local permits, and is in full compliance with all applicable regulations for reuse, recycling, composting, and/or materials recovery.
- b. "Applicant" means (a) 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, or who is issued, the applicable permits to undertake a construction, remodeling, or demolition project within Palo Alto, and (b) the owner of the real property that is subject to the permit.
- c. "Construction and demolition debris" or "construction and deconstruction materials" means (1) discarded materials generally considered to be non-water soluble and non-hazardous in nature (as defined by California Code of Regulations, Title 22, § 66261.3 et seq.), including but not limited to, metal, glass, brick, concrete, porcelain, ceramics, asphalt, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, including rocks, soil, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project; and (2) remnants of new materials, including but not limited to, cardboard, paper, plastic, wood, glass and metal from any construction, renovation and/or landscape project.
- d. "Contractor" means any person or entity holding, or required to hold, a contractor's license under the laws of the State of California, and who performs any construction, deconstruction, demolition, remodeling, renovation, or landscaping service relating to buildings or accessory structures in the city.
- e. "Covered project" means any project that is required to comply with the provisions of this Chapter 5.24, as described in Section 5.24.030.
- f. "Deconstruction" means the systematic and careful dismantling of a structure, typically in the opposite order it was constructed, in order to maximize the salvage of materials and parts for reuse and recycling.

- g. "Demolition" means the partial or complete destroying, tearing down, dismantling or wrecking of any building or structure.
- h. "Diversion" means any activity, including recycling, source reduction, reuse, deconstruction, or salvaging of materials, which causes materials to be diverted from disposal in landfills and instead puts the material to use as the same or different usable product.
- i. "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 or reconstituted products which meet the quality standards necessary to be used in the marketplace. This term does not include transformation as that term is defined in Public Resources Code section 40180.
- j. "Reuse" means further or repeated use of materials or items, including sale or donation of items, but not including recycling.
- k. "Reuse organization" means an organization approved by the City to provide salvage surveys and accept materials or items for reuse.
- l. "Salvage" means the controlled removal of items and material from a building, construction, or demolition site for the purpose of on- or off-site reuse, or storage for later reuse. Examples of items that may be salvaged include air conditioning and heating systems, columns, balustrades, fountains, gazebos, molding, mantels, pavers, planters, quoins, stair treads, trim, wall caps, bath tubs, bricks, cabinetry, carpet, doors, ceiling fans, lighting fixtures, electrical panel boxes, fencing, fireplaces, flooring materials of wood, marble, stone or tile, furnaces, plate glass, wall mirrors, door knobs, door brackets, door hinges, marble, iron work, metal balconies, structural steel, plumbing fixtures, refrigerators, rock, roofing materials, siding materials, sinks, stairs, stone, stoves, toilets, windows, wood fencing, lumber and plywood.
- m. "Source separated single recyclable materials" means recyclable materials that are separated from other recyclable materials or solid waste and placed in separate containers according to type or category of materials and directly marketed as a single commodity.

5.24.030 Applicability

This Chapter shall be applicable to all residential and commercial projects that include a whole structure demolition requiring a demolition permit. However, this Chapter shall not apply to those projects comprised solely of the demolition of an accessory dwelling unit, or to any project for which the completed demolition permit application was submitted to the City prior to July 1, 2020.

5.24.040 Salvage survey and reuse required

- a. All applicants and other persons who undertake a covered project shall complete a salvage survey provided by a reuse organization or other third party approved by the City, prior to the issuance of a demolition permit. The survey shall itemize the materials and items eligible for salvage and reuse and the estimated weights.
- b. Upon completion of the deconstruction and source separation of materials, the applicant or person responsible for the covered project shall ensure the items listed on the salvage survey are delivered to, collected by or received by, and certified by a reuse organization or other third party approved by the City, and shall submit to the City proof of delivery of salvage items in accordance with City regulations.

5.24.050 Deconstruction and source separation of materials

- a. All applicants and other persons who undertake a covered project where materials can be recycled or composted shall deconstruct buildings and structures in a manner to divert the maximum feasible amount of materials and debris from disposal in landfills. All construction and deconstruction materials shall be source separated. Materials to be source separated for recycling include, but are not limited to, steel, glass, brick, concrete, asphalt, roofing material, pipe, gypsum, sheetrock, lumber, wood, pallets, rocks, sand, soil, clean cardboard, paper, plastic, carpet, wood and metal scraps. Materials to be composted include, but are not limited to, trees, shrubs, plant cuttings, food scraps, and other material as designated by the City.
- b. All persons undertaking a covered project shall submit proof of reuse, recycling and composting in accordance with City regulations.
- c. The City, or its collector at City's direction, shall be authorized to inspect, upon reasonable notice, and audit individual waste streams generated at covered projects to determine compliance with this Section.

5.24.060 Material collection

Projects using a container provided by the City's collector pursuant to the provisions of Chapter 5.20 shall be deemed to have complied with the requirement to take construction and deconstruction related waste and source separated materials to an approved facility. Persons using any other method of collection shall dispose of such debris at an approved facility in accordance with City regulations.

5.24.070 No unauthorized containers

No person other than the City's collector may place containers within Palo Alto.

5.24.080 Exclusions

The provisions of this Chapter shall not apply to the following:

- a. Dangerous Structures. Any building or structure that has been determined to be dangerous, structurally unsafe or otherwise hazardous to human life, and is required to be abated by demolition.
- b. No Suitable Materials. Any building or structure that does not have materials that are suitable for reuse, recycling, or compost, as determined by the Director of Public Works. Materials unsuitable for reuse, recycling, or compost include insulation, painted or treated wood, rubber, and non-recyclable plastics.
- c. De Minimus Exception. The Director of Public Works may waive any of the requirements of this Chapter if documentation satisfactory to the Director is provided to establish that the materials are not reusable, recyclable or compostable, the materials are incidental in quantity, or providing appropriate containers at the particular site would be unduly difficult.

5.24.090 Administration by City Manager

- a. The City Manager shall adopt written rules and regulations, not inconsistent with this Chapter, as may be necessary for the proper administration and enforcement of this Chapter.
- b. The City Manager shall resolve all disputes concerning the administration or enforcement of this Chapter, and his or her decision shall be final.

5.24.100 Enforcement and penalties

- a. The Director of Public Works shall have primary responsibility for enforcement of this Chapter. The Director of Public Works is authorized to take any and all other actions reasonable and necessary to enforce this Chapter.
- b. Violation of any provision of this Chapter shall be subject to the provisions and penalties set forth in Title 1 of the Municipal Code unless otherwise specified.
- c. The remedies and penalties provided in this Section are cumulative and not exclusive.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and

each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. The potential environmental impacts of this Ordinance were evaluated in an Initial Study/Negative Declaration (IS/ND) prepared in accordance with the California Environmental Quality Act ("CEQA"), which IS/ND the Council considered and adopted by separate resolution prior to taking action to approve this Ordinance.

SECTION 5. This Ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED: June 10, 2019

PASSED: June 24, 2019

AYES: CORMACK, DUBOIS, FILSETH, FINE, KNISS, KOU, TANAKA

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

DocuSigned by:
Beth Minor
27523117DA804D7...
City Clerk

DocuSigned by:
Eric Filseth
64244717295F422...
Mayor

APPROVED AS TO FORM:

APPROVED:

DocuSigned by:
Sandra Lee
38C8B9D557AF4E3...
Assistant City Attorney

DocuSigned by:
Ed Swikada
F2DCA19CCC8D4F9...
City Manager

DocuSigned by:
Brad Eggleston
DF8505A6373A4DF...
Director of Public Works

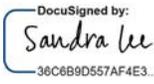
Certificate Of Completion

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Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Kim Lunt
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	250 Hamilton Ave
	Palo Alto , CA 94301
	kimberly.lunt@cityofpaloalto.org
	IP Address: 12.220.157.20

Record Tracking

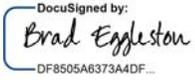
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Storage Appliance Status: Connected	Pool: City of Palo Alto	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
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Assistant City Attorney		Viewed: 6/26/2019 9:36:39 AM
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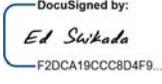
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Not Offered via DocuSign

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Assistant Director Public Works		Signed: 6/26/2019 5:37:06 PM
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Electronic Record and Signature Disclosure:

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City Manager		Signed: 6/28/2019 7:28:29 AM
City of Palo Alto	Signature Adoption: Pre-selected Style	
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Electronic Record and Signature Disclosure:

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Mayor		Viewed: 6/28/2019 9:26:30 AM
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	Using IP Address: 108.169.4.229	

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Signer Events	Signature	Timestamp
Beth Minor Beth.Minor@CityofPaloAlto.org City Clerk City of Palo Alto Security Level: Email, Account Authentication (None)	 <p>Signature Adoption: Pre-selected Style Using IP Address: 71.92.237.143 Signed using mobile</p>	Sent: 6/28/2019 9:26:47 AM Viewed: 6/28/2019 10:04:42 AM Signed: 6/28/2019 10:05:29 AM

Electronic Record and Signature Disclosure:
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