

ORDINANCE NO. 19-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO SANTA MARGARITA, CALIFORNIA, AMENDING CHAPTER 5.06 (SOLID WASTE) TO TITLE 5 (HEALTH & SANITATION) OF THE RANCHO SANTA MARGARITA MUNICIPAL CODE PERTAINING TO CONSTRUCTION AND DEMOLITION DEBRIS DIVERSION

The City Council of the City of Rancho Santa Margarita, California, does hereby ordain as follows:

Section 1. The City Council of the City of Rancho Santa Margarita hereby finds, determines, and declares as follows:

- A. The California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) requires the City of Rancho Santa Margarita to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in the volume of waste materials going to landfills, or face fines up to \$10,000 per day; and
- B. The City Council of Rancho Santa Margarita adopted Ordinance No. 06-01 on January 11, 2006, establishing the City's Construction and Demolition Waste Recycling Program; and
- C. The California Green Building Standards Code (Part 11 of Title 24, California Code of Regulations) known as CALGreen became mandatory on January 1, 2011, concurrent with other parts of the 2010 California Building Standards Code (Title 24) and mandated 50% diversion of construction and demolition material; and
- D. Every three years the California Building Standards Commission adopts new and/or updated standard construction codes;
- E. The 2016 CALGreen went into effect on January 1, 2017, and increased the construction and demolition material diversion requirement to 65% for the majority of demolition and construction projects; and
- F. The City Council adopts this ordinance to update its Construction and Demolition Waste Recycling Program to comply with CALGreen requirements.

Section 2. Section 5.06.030 (Definitions) of Chapter 5.06 (Solid Waste) of Title 5 (Health & Sanitation) of the Rancho Santa Margarita Municipal Code is hereby amended to add the following definition to read as follows (additions are **bolded**):

Universal Waste are any of the hazardous wastes that are listed in section 66261.9 of Article 1, Chapter 11, Division 4.5 of Title 22 of the California Code of Regulations, which includes electronic devices, batteries, electric lamps, fluorescent tubes and bulbs, high intensity discharge lamps, sodium vapor lamps and lamps that contain added mercury, mercury-containing equipment, CRT, CRT glass, and non-empty aerosol cans.

Section 3. Section 5.06.565 (Universal Waste Disposal) is hereby added to Article III (Solid Waste Collection) of Chapter 5.06 (Solid Waste) of Title 5 (Health & Sanitation) of the Rancho Santa Margarita Municipal Code to read as follows (additions are **bolded**):

Sec. 5.06.565. - Universal Waste Disposal.

Universal Waste (such as batteries, electronic waste, electronic lamps, cathode ray tubes/glass, non-empty aerosol cans) shall be diverted from landfills and disposed of in accordance with State laws and regulations.

Section 4. The following sections in Article IV (Construction and Demolition Debris Diversion) of Chapter 5.06 (Solid Waste) of Title 5 (Health & Sanitation) of the Rancho Santa Margarita Municipal Code are hereby amended to read as follows (deletions in ~~strikethrough~~, additions in **bold**):

Sec. 5.06.720. – Minimum construction and demolition debris requirements.

- (a) ~~All covered projects shall reuse, recycle, or divert the minimum percentage of C&D debris generated from landfills or disposal sites. This minimum is set at 50 percent, unless otherwise approved by the City on a case-by-case basis. City reserves the right to revise diversion requirements by resolution.~~ **All Covered Projects shall reuse, recycle, or divert the minimum percentage amount of designated recyclable and reusable materials as set forth by State law and regulations. The 2016 CALGreen (Part 11 of Title 24, California Code of Regulations) requires a minimum diversion of 65%, which is expected to increase to 75% for the 2019 edition that will be applicable in 2020.**
- (b) Diversion may be satisfied by any of the following methods:
- (1) Use of new construction methods, approved by the City, that reduce the amount of C&D debris generated.
 - (2) On-site reuse of the C&D debris.
 - (3) Delivery of the C&D debris from a site to a recycling facility as described in this Article.
 - (4) Other methods approved by the City.

Sec. 5.06.730. - Requirements for covered and non-covered projects.

- (a) Covered projects. All construction, demolition, addition, alteration, and remodel projects within the City not otherwise excluded by the thresholds set forth in ~~exempted under Section 5.2.740~~ **5.06.770**, are required to divert the **minimum percentage amount of designated recyclable and reusable materials from landfills**. The ~~minimum diversion requirement is 60 percent of all material generated, unless a lower rate is approved by the City after review of the project's WRRP pursuant to Section 5.02.750.~~ Failure to comply with the diversion requirements of this Article shall cause the project applicant to forfeit its security deposit set forth in Section ~~5.02.780~~ **5.06.780**. Concurrent permits at the same site are considered one project for the purposes of this Article.
- ~~(b) Non-covered projects. Applicants for construction, demolition, addition, alteration, and remodel projects within the City, in which the projects are beneath the thresholds for covered projects as set forth in Section 5.02.740, or who are otherwise excluded by this Article from having to complete a WRRP, shall be encouraged to divert at least 60 percent of all project related C&D debris.~~
- ~~(e)~~**(b)** City-sponsored projects. Documentation and diversion requirements for City-sponsored construction and demolition projects shall be included in the project contract with the City. These projects shall only be considered covered-projects if City identifies them as such on a project-by-project basis.

Sec. 5.06.740. - Definition of covered projects; ~~threshold requirements.~~

~~If a project meets any of the following thresholds, it is considered a covered project and must meet all requirements for covered projects as described in this Article.~~

- (1) Covered projects (~~construction, remodeling, demolition~~): All construction, **addition, alteration**, remodeling and demolition projects within the City **that generate construction and demolition debris requiring a permit**, the ~~total costs of which are projected to be greater than or equal to \$10,000.00 or the square footage of the project is greater than or equal to 250 square feet~~ are considered covered projects, **are required to divert the minimum percentage amount of designated recyclable and reusable materials from landfills**, and require the submittal of a waste reduction and recycling plan prior to beginning any construction, remodeling or demolition activities, and shall be subject to the provisions of this Article. Failure to comply with any of the terms of this Article shall subject the building/demolition permit applicant to the full range of enforcement mechanisms set forth in Sections 5.06.800 and 5.06.840.

- ~~(2) Non covered projects (construction, remodeling, demolition): Applicants for construction, remodeling and demolition projects within the City whose total costs are less than \$10,000.00 and smaller than 250 square feet are not required, but shall be encouraged, to divert at least 50 percent of all project related C&D debris.~~
- ~~(3)~~(2) Deconstruction/recovery interval for covered demolition projects: Every covered demolition project shall be made available for deconstruction, salvage, and recovery prior to demolition. It shall be the responsibility of the applicant to recover the maximum feasible amount of designated recyclable and reusable materials prior to demolition. Recovered and salvaged designated recyclable and reusable material from every project shall qualify to be counted in meeting the diversion requirement. Recovered or salvaged designated recyclables and reusable materials may be given away or sold on the premises, or may be removed to re-use facilities for storage or sale.
- ~~(4)~~(3) All permits for construction, remodeling, and/or demolition issued for a covered project shall be conditioned to comply with this Article.

Sec. 5.06.750. - Waste reduction and recycling plan (WRRP) required.

- (a) Except as otherwise specified in this Article, each applicant who applies for a building permit for a covered project shall submit a WRRP. The WRRP forms shall be provided by City. No building permit or exemption shall be issued for covered projects unless a WRRP has been approved by the C&D compliance official.
- (b) Prior to starting the project, every applicant shall submit a properly completed WRRP to the City, in a form as prescribed by C&D compliance official, as a portion of the building or demolition permit process. The completed WRRP shall contain the following:
- (1) The estimated volume or weight of project waste to be generated by material type;
 - (2) The maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling by material type;
 - (3) The vendor(s) that the applicant proposes to use to haul the materials;
 - (4) Facility(s) the materials will be hauled to, and their expected diversion rates by material type;
 - (5) Estimated volume or weight of C&D debris that will be disposed.

- (c) Because actual material weights are not available at this stage, estimates may be used. In estimating the volume or weight of materials as identified in the WRRP, the applicant shall use the standardized conversion rates approved by the City for this purpose. Approval of the WRRP as complete and accurate shall be a condition precedent to the issuance of any building or demolition permit. If the applicant calculates the projected feasible diversion rate as described above, and finds that the rate does not meet the diversion goal, the applicant must then submit information supporting the lower diversion rate. If this documentation is not included, the WRRP shall be deemed incomplete.

- (d) Approval. No building or demolition permit shall be issued for any covered project unless and until the C&D compliance official has approved the WRRP. Approval shall not be required, however, where emergency demolition is required to protect public health or safety. The C&D compliance official shall only approve a WRRP if he or she determines that all of the following conditions have been met:
 - (1) The WRRP provides all of the information set forth in this Article.
 - (2) The WRRP indicates how ~~50 percent~~ **the minimum percentage amount** of all C&D debris generated by the project shall be diverted ~~(or new diversion goal set in accordance with the permit applicant's approved request for an alternative diversion goal);~~ and
 - (3) The permit applicant has submitted an appropriate security deposit for the project.

- (e) Non-approval. If the C&D compliance official determines that the WRRP is incomplete or fails to indicate how at least ~~50 percent (or new diversion goal set in accordance with the applicant's approved diversion exemption request)~~ **the minimum percentage amount** of all C&D debris generated by the project will be diverted, he or she shall either:
 - (1) Return the WRRP to the applicant marked "Disapproved", including a statement of reasons, and will notify the building department, which shall then immediately stop processing the building or demolition permit application, or
 - (2) Return the WRRP to the applicant marked "Further Explanation needed."

Sec. 5.06.760. - Certified recycling facilities.

- ~~(a) All mixed C&D waste generated at a construction, remodeling, or demolition site shall be taken to a City-certified recycling facility. All source-separated~~

~~C&D waste may be taken to any recycling, composting, materials recovery or re-use facility certified by the State to collect source-separated C&D waste.~~

~~For a facility to be certified, the following criteria must be provided to, demonstrated to and approved by the City. Certifications shall remain in effect so long as [the] facility is in compliance with the certification criteria (as determined by City) and City code remains in effect. Each facility must be certified separately for facilities owned by same company or subsidiaries.~~

- ~~(1) Facility must divert a minimum of 60 percent of all C&D material from City on a monthly basis. This diversion rate shall be specific to material originating from the City. This is not a facility-wide diversion rate.~~
- ~~(2) Facility must provide hard and electronic copies of all facility permits and last 12 months of Local Enforcement Agency (LEA) facility inspection reports.~~
- ~~(3) Facility must provide hard and electronic copies of LEA facility inspection reports to City within ten days of inspection.~~
- ~~(4) Facility must demonstrate compliance with all local, state and federal permit requirements and all applicable regulations.~~
- ~~(5) Facility gate rates must be posted at the scale and available to all users of the facility.~~
- ~~(6) Facility must notify City of any changes to gate rates 24 hours prior to implementing change.~~
- ~~(7) Facility may not reject any mixed C&D or source separated C&D load originating in City. Loads may be delivered by City franchise hauler, all approved City permittees, all self haulers and from any other source.~~
- ~~(8) Facility must provide the City with quarterly tonnage municipal solid waste (MSW) and recycling reports within 30 days following the end of each calendar quarter. Facility must provide documentation to demonstrate the facility's ability to ability to divert 60 percent. Reports must be provided in both a hard copy and an electronic excel format.~~
- ~~(9) Facility must provide a narrative description and supporting calculations to document allocation method used to determine diversion rate. Allocations must be updated not less than every six months.~~

~~(10) Facility must provide a statement of certification under penalty of perjury signed by a company official for all reports and allocation methods provided to City.~~

~~(11) Documents provided by facility must be satisfactory to C&D Compliance Official. Satisfaction may be determined based on completeness; representativeness of facility wide data; representativeness of City specific data; verifiable by tonnage records, weight slips, facility reports; historically consistent; documented and approved allocation methods; consistency of reporting and allocation practices.~~

~~(12) Facility and affiliated entities of facility must be in good standing with City. Good standing may be determined based on responsiveness in a timely manner of facility and affiliated entities to solid waste and recycling requests from City staff and representatives.~~

~~(13) Facility agrees to provide access to tonnage records (electronic or printed) at the Facility site to City staff or City representatives within 10 days of receipt of written request by City.~~

~~(14) Facility agrees to comply with all criteria and any modifications made by the City to the criteria.~~

~~If a facility fails to meet the terms of certification, the facility will be notified by the City, via mail, of the areas of non-compliance and the documents required to be submitted to the City that will demonstrate compliance with criteria. The facility will have 45 days upon receipt of the letter from the City to correct the areas of non-compliance and submit supporting documentation to the City as required in letter from City. If the facility fails to provide documentation demonstrating compliance with criteria within the 45 days of receipt of letter from City, the facility certification will be considered null and void. A facility that has had its certification revoked may request to be recertified 3 months after revocation of the previous certification.~~

~~(b) For the purposes of this Article, a certified recycling facility means a recycling, composting, materials recovery, or re-use facility for which the C&D Compliance Official has issued a certification pursuant to regulations promulgated by the C&D Compliance Official.~~

~~(c) The C&D Compliance Official shall approve use of the facilities only if the owner or operator of the facility has submitted the following documentation satisfactory to the C&D Compliance Official:~~

- ~~(1) That the facility has obtained all applicable federal, state, and local permits, and is in full compliance with all applicable regulations; and~~
- ~~(2) The percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal meets a minimum of 60 percent diversion level. (d) The City shall make available to each applicant an approved list of certified recycling facilities.~~

For the purposes of this Article, a certified recycling facility means a recycling, composting, materials recovery, or re-use facility which (a) has obtained all applicable federal, state, and local permits; (b) is in full compliance with all applicable regulations; and (c) diverts from landfill disposal the minimum percentage established in this Article of all incoming waste from construction and demolition activities. The C&D Compliance Official may maintain a list of certified recycling facilities. Any facilities not included in the list maintained by the C&D Compliance Official shall first be approved by the C&D Compliance Official before being accepted as a certified recycling facility for purposes of compliance with the requirements of this Article.

Sec. 5.06.820. - Reporting.

- (a) Within 60 days following the completion of a covered project, the applicant shall, as a condition precedent to release of security deposit, submit documentation to the C&D compliance official reporting on compliance with the requirements of the waste reduction and recycling plan. The documentation consists of a final completed "C&D debris recycling and disposal report summary" showing actual data of tonnage of materials recycled and diverted, supported by original receipts and weight tags or other records of measurement from recycling companies, contractors and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused, salvaged, or otherwise disposed of.
- (b) If a project involves both demolition and construction, the report and documentation for the demolition project must be submitted to, and approved by, the C&D Compliance Official before issuance of a building permit for the construction project. If the applicant has not met the diversion requirement for demolition, the C&D Compliance Official may, in addition to other remedies set forth in this Article, require a higher percentage of diversion for construction than established by ~~City Council resolution in this Article~~, provided that the higher percentage is no higher than the shortfall in diversion from demolition. In the alternative, the applicant may submit a letter stating that no designated recyclable or reusable materials were

generated from the construction/demolition project. In which case, this statement shall be subject to verification by the C&D Compliance Official.

Section 5. If any section, subsection, subdivision, sentence, clause, phrase, or a portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

Section 6. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted as required by law.

PASSED, APPROVED AND ADOPTED THIS 23RD DAY OF JANUARY, 2019,
BY VOTE AS FOLLOWS:

AYES: Council Members Beall, Figueroa, Gamble, Mayor Pro Tempore McGirr and Mayor Holloway (5)

NOES: None (0)

ABSENT: None (0)

ABSTAIN: None (0)


JERRY HOLLOWAY, MAYOR

ATTEST:


AMY DIAZ, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF RANCHO SANTA MARGARITA)

I, Amy Diaz, City Clerk of the City of Rancho Santa Margarita, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 19-01 was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 9th day of January, 2019, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 23rd day of January, 2019.



AMY DIAZ, CITY CLERK

AFFIDAVIT OF POSTING
AND PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF RANCHO SANTA MARGARITA)

AMY DIAZ, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Rancho Santa Margarita;

That in compliance with State Laws of the State of California, ORDINANCE NO.19-01, being:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO SANTA MARGARITA, CALIFORNIA, AMENDING CHAPTER 5.06 (SOLID WASTE) TO TITLE 5 (HEALTH & SANITATION) OF THE RANCHO SANTA MARGARITA MUNICIPAL CODE PERTAINING TO CONSTRUCTION AND DEMOLITION DEBRIS DIVERSION

on the 1st day of February, was published in the Coto De Caza News; and was in compliance with City Resolution No. 00-01-06-07, on the 1st day of February, caused to be posted in three places in the City of Rancho Santa Margarita, to wit:

Rancho Santa Margarita City Hall
Fire Station 45
Trabuco Canyon Water District



AMY DIAZ, CITY CLERK