



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: G. Harold Duffey
Director, Oakland Public
Works

SUBJECT: Ordinance Amending OMC Chapter
15.34 C&D Debris Recycling
Requirements

DATE: April 24, 2023

City Administrator Approval

Date: May 11, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Amending Oakland Municipal Code Chapter 15.34 (Construction And Demolition Debris Collection, Transportation, Waste Reduction And Recycling Requirements) To Clarify The Definition Of Affected Projects To Specify The Inclusion Of All Residential And Non-Residential New Construction, Additions, Alterations, Repairs, Demolition, And Historic Resource Removal Regardless Of Size Or Value, And To Require Disposal Facilities That Receive Construction And Demolition Debris From Oakland To Implement Automation That Uploads Certified Weight Records To City Construction And Demolition Debris Tracking Software, And Adopting Appropriate California Environmental Quality Act Findings.

EXECUTIVE SUMMARY

Staff recommends that the City Council amend Oakland Municipal Code (OMC) Chapter 15.34 to revise the definition of Affected Projects such that all construction and demolition (C&D) projects requiring building permits will be required to recycle their C&D debris and submit Waste Reduction and Recycling Plans (WRRPs) and Construction and Demolition Summary Reports (CDSRs). In addition, staff recommends adding a requirement to OMC Chapter 15.34 stipulating that disposal facilities which receive debris from building projects in Oakland must implement automation to upload certified weight records to the City's web-based C&D debris tracking system (Green Halo Systems).

These proposed amendments will reduce climate pollutants by increasing the number of projects subject to the City's C&D debris recycling requirements, and through increased recycling of organic C&D debris, including but not limited to untreated wood, cardboard, and

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plant debris. Requiring disposal facilities to upload data, as recommended, will facilitate timely review and approval of the increased volume of WRRP and CDSR submittals, reduce manual input errors, increase accuracy, and help identify unauthorized C&D debris haulers operating without a non-exclusive franchise agreement per OMC Chapter 15.34.

BACKGROUND / LEGISLATIVE HISTORY

In 2000, the City Council adopted Ordinance No. 12253 C.M.S., codified in OMC Chapter 15.34 (https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT15BUCO_CH_15.34CODEDECOTRWARERERE), establishing the requirement to prevent landfilling of C&D debris through waste reduction and recycling. The Ordinance initially required that C&D projects recycle 50 percent of all C&D debris. In 2006, the program requirements increased to 100 percent of asphalt and concrete and 65 percent of all remaining debris. And, in 2015, the City Council adopted Ordinance No. 13315 C.M.S.

(<https://oakland.legistar.com/View.ashx?M=F&ID=3850481&GUID=8795E214-39AF-4BDD-A80E-30009703BBCE>) to further amend OMC Chapter 15.34 to include penalties for noncompliance.

In 2016, Governor Jerry Brown signed into law the Short-Lived Climate Pollutants Reduction Act of 2016, commonly referred to as Senate Bill 1383 (SB 1383). The goal of SB 1383 is to reduce methane emissions associated with landfills, dairies and livestock, and organic waste, with specific methane reduction targets. The California Department of Resources Recycling and Recovery (CalRecycle) developed SB 1383 Regulations to achieve the goals of SB 1383, including Chapter 12 of Title 14, Division 7 of the California Code of Regulations (CCR), and amended portions of regulations of Title 14 CCR and Title 27 CCR. Final rulemaking was issued by CalRecycle in October 2020 and SB 1383 Regulations took effect in January 2022 to include mandates for waste reduction and diversion, edible food recovery, recycled paper procurement, compost procurement, C&D debris recycling in accordance with the California Green Building Standards Code (CALGreen SB 1383 Baseline Requirements), program enforcement, recordkeeping, and other requirements.

In 2021, the City Council adopted Ordinance No. 13672 C.M.S. (<https://oakland.legistar.com/View.ashx?M=F&ID=10370080&GUID=50C97BC0-4406-4FD9-B0AB-3AD045F3CE9F>) which updated Chapter 15.34 of the OMC to be consistent with new CALGreen updates and compliant with other SB 1383 requirements. In that ordinance, the definition of Affected Projects was changed to match the CALGreen definition. Unfortunately, this created conflicts within the ordinance between Covered Projects and Affected Projects and had the unintended effect of reducing, instead of increasing, C&D projects subject to the requirements of OMC 15.34.

ANALYSIS AND POLICY ALTERNATIVES

The recommended amendments to OMC Chapter 15.34 resolve the conflict inadvertently created by Ordinance No. 13672 C.M.S. by clarifying that all construction, addition, alteration,

repair, demolition, and historic resource removal projects within the city, regardless of project value or size, are subject to the City's C&D debris recycling requirements. The more inclusive definition of Affected Projects is allowed by the State and is consistent with the City's C&D debris recycling program requirements. The recommended amendments also remove definitions of the three types of Covered Projects currently in OMC Chapter 15.34.

These changes will increase the number of Affected Projects and, in turn, Recycling Program staff's workload to review and process WRRPs and CDSRs. Staff anticipated this increase and have implemented partial workflow automation that streamlines staff's review and approval of submittals. Requiring disposal facilities to automatically upload data to the City's web-based C&D debris tracking software as recommended will also reduce staff time spent on manually entering data. Lastly, additional efficiency gains will also be achieved through the implementation of the new Reimagining One-Stop Permitting process, the City's effort to enhance its permitting services and related user experience by streamlining processes and promoting inter-departmental coordination.

Adoption of the proposed ordinance supports the City's goal of building **vibrant, sustainable infrastructure**. All construction and demolition projects will be mandated to sort their discards for diversion from the landfill to reduce the creation of short-lived climate pollutants and other waste.

FISCAL IMPACT

There is no impact on the General Purpose Fund, and no additional funding is requested. However, adopting these proposed amendments to OMC Chapter 15.34 will result in significantly more projects being subject to C&D debris recycling requirements, potentially leading to an annual estimated revenue increase of \$500,000 in fees to Fund 1710 (Recycling Program).

PUBLIC OUTREACH / INTEREST

Staff will collaborate with the City's Planning and Building Department (PBD) to conduct outreach and educate the public on the expanded C&D debris recycling requirements, when implementing this new ordinance.

COORDINATION

Recycling Program staff coordinated closely with PBD in preparing this legislation, and if adopted, will collaborate with PBD on its implementation. This report and ordinance have been reviewed for form and legality by the Office of the City Attorney and the Budget Bureau of the Finance Department.

SUSTAINABLE OPPORTUNITIES

Economic: Adoption of this ordinance will create additional economic opportunities for C&D disposal facilities and C&D haulers in the City.

Environmental: Landfilling organic materials found in C&D debris such as untreated wood, cardboard, and plant debris, leads to the anaerobic breakdown of that material, creating short-lived climate pollutants and potent greenhouse gases such as methane. This ordinance will expand the City's C&D debris recycling requirements to more projects resulting in additional organic materials diverted from landfill disposal and a reduction in climate pollutants caused by landfill disposal of these materials.

Race & Equity: Adoption of this ordinance will enable the City to maximize diversion of recoverable waste from being landfilled and thus reduce the creation of short-lived climate pollutants. This will mitigate the adverse effects of climate change which tend to disproportionately impact frontline communities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This ordinance is adopted pursuant to the SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared under the California Environmental Quality Act (CEQA) by CalRecycle. The activities to be carried out under this ordinance are entirely within the scope of the SB 1383 Regulations and its program EIR. No mitigation measures identified in the EIR are applicable to the City's enactment of this ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in CEQA, at Public Resources Code Section 21166, and its regulations (CEQA Guidelines) at 14 CCR Sections 15162 and 15163, have occurred. The program EIR therefore adequately analyzes any potential environmental effects of the ordinance, and no additional environmental review is required.

On a separate and independent basis, this ordinance is categorically exempt in accordance with Section 15307 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of natural resources; and in accordance with Section 15308 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of the environment.

ACTION REQUESTED OF THE CITY COUNCIL

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For questions regarding this report, please contact Wanda Redic, Recycling Specialist III, at (510) 238-6808 or wredic@oaklandca.gov.

Respectfully submitted,



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