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Celso Ortiz (May 8, 2023 11:12 PDT)

CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL ORDINANCE NO. 18745 C.M.S.

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

**WHEREAS**, in 2000 the City Council of the City of Oakland (City) approved Ordinance No. 12253 C.M.S., adopting the Construction and Demolition (C&D) Debris Waste Reduction and Recycling Requirements; and

**WHEREAS**, in 2015, the City Council adopted Ordinance No. 13315 C.M.S. to amend the Construction and Demolition Debris Waste Reduction and Recycling Requirements to include penalties for noncompliance and make other changes to conform to the City's franchise agreement; and

**WHEREAS**, the California Legislature adopted Senate Bill (SB) 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the State of California Health and Safety Code and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the State of California Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time; and

**WHEREAS**, the State adopted regulations in 2020 (14 California Code of Regulations (CCR), Division 7, Chapter 12, and amended portions of regulations of 14 CCR, 24 CCR and 27 CCR) (SB 1383 Regulations), which require cities, counties, and special districts providing solid

waste collection services to adopt and enforce an ordinance, or other enforceable mechanism, that requires compliance with Sections 4.408.1 and 5.408.1 of the California Green Building Standards Code, Part 11, Title 24 of the CCR, as amended July 1, 2019 and effective January 1, 2020, which relate to residential and non-residential construction waste management (CALGreen SB 1383 Baseline Requirements); and

**WHEREAS**, the CALGreen SB 1383 Baseline Requirements mandate the recycling or salvaging for reuse of a minimum of 65% of nonhazardous C&D debris per Sections 4.408.1 and 5.408.1 of the California Green Building Standards Code, Title 24 of the CCR, Part 11, as amended July 1, 2019; and

**WHEREAS**, under the CALGreen SB 1383 Baseline Requirements, organic waste that is commingled with C&D debris must also be diverted from the landfill; and

**WHEREAS**, on November 21, 2021, the City Council approved Ordinance No. 13672 C.M.S. amending Chapter 15.34 (Construction and Demolition Debris Collection, Transportation, Waste Reduction and Recycling Requirements) of the Oakland Municipal Code (OMC) to conform to SB 1383 Regulations and the CALGreen SB 1383 Baseline Requirements; and

**WHEREAS**, staff recommends that the City Council amend OMC Chapter 15.34 to clarify the project types that are affected under the requirements of Chapter 15.34, to include all new residential and non-residential construction, demolition, additions and alterations, and all historic resource removal, which would exceed the CALGreen SB 1383 Baseline Requirements, which is allowed by State law and is consistent with the City's C&D recycling program diversion requirements; and

**WHEREAS**, this Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations that 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; and

**WHEREAS**, on a separate and independent basis, this Ordinance is categorically exempt under CEQA 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; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Amendment of Oakland Municipal Code.** Chapter 15.34 (Construction and Demolition Debris Collection, Transportation, Waste Reduction and Recycling Requirements) of the Oakland Municipal Code is hereby amended as follows (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by ~~strikethrough~~).

**Chapter 15.34 CONSTRUCTION AND DEMOLITION DEBRIS COLLECTION, TRANSPORTATION, WASTE REDUCTION AND RECYCLING REQUIREMENTS**

**15.34.010 Title.**

The provisions of Section 15.34.010 through Section 15.34.090 inclusive, shall be known as the City of Oakland "Construction and Demolition Debris Collection, Transportation, Waste Reduction and Recycling Requirements."

(Ord. No. 13672, 2021, Ord. No. 13315, §1, 6-22-2015)

**15.34.020 Purpose and intent.**

The purpose of these provisions is to prescribe requirements designed to meet and further the goals of the California Integrated Waste Management Act of 1989 Assembly Bill 939 and the Alameda County Waste Reduction and Recycling Act of 1990 (Measure D), and to comply with the requirements of Cal Sections 5.408.1 and 4.408.1 and SB 1383 regulations CCR 14 Section 18989. I (a)(2) (the Short-lived Climate Pollutant Reduction Act of 2016), to maximize the recycling and salvage of C&D debris through commercially viable options and by requiring all construction, alteration, addition, renovation, repair and demolition projects to comply with the City's requirements.

The intent of these provisions is to divert at a minimum 65 percent of C&D debris from landfills; process and return the materials into the economic mainstream thereby conserving natural resources; and stimulate markets for recycled and salvaged materials.

Chapters 4 and 5 of 2016 and 2019 CALGreen require that applicants for construction permits recycle and/or salvage for reuse a minimum of 65% of the non-hazardous construction and demolition waste in accordance with this code.

The City of Oakland requires that applicants for construction permits additionally recycle and/or reuse 100% of asphalt and concrete and recycle 65% of the remaining material generated. All plant and tree debris shall be separated from the other material and 100% of the plant and tree material shall be composted.

The City Administrator or his/her designee is authorized to develop guidelines to implement the requirements of this Chapter, which may be amended from time to time.

(Ord. No. 13672, 2021, Ord. No. 13315, §1, 6-22-2015)

**15.34.030 Definitions.**

For the purpose of this Chapter 15.34, the following definitions shall apply:

"Addition" means an extension or increase in floor area or height of a building or structure ~~(as adopted in Section 15.04.005).~~

"Affected project" shall be all these residential and non-residential construction, alteration, addition, renovation, repairs, and demolition projects regardless of size or value that are subject to the mandatory measures, in the most current version of the Construction Waste Reduction, Disposal and Recycling sections of the California Green Building Standards Code. Affected projects shall include the following, regardless of project value or size:

- All new Construction (residential and non-residential); and
- All Historic resource removal; and
- All Demolition (residential and non-residential); and
- All Additions, Alterations and Repairs (residential and non-residential), regardless of size and Affected project value.

~~Affected projects shall also include all projects subject to the residential and non-residential mandatory measures in the most current version of the Construction Waste Reduction, Disposal and Recycling Sections 4.408.1 and 5.408.1 of the California Green Building Standards Code 24 CCR, Part 11 as amended July 1, 2019, and effective January 1, 2020, and as amended, supplemented, superseded and replaced from time to time. The exception, as noted above, is that affected projects are not limited to those within the CALGreen project value and size thresholds and for the purposes of this Ordinance there is no project value or size threshold; all residential and non-residential construction projects, as bulleted above, are affected projects that must meet the requirements noted in this Ordinance, including the submittal of a waste reduction and recycling plan.~~

"Alteration" means any Construction or renovation to an existing structure other than Repair or Addition. any change; addition or modification in construction or occupancy (as adopted in Section 15.04.005).

"Apartment house" means any building or portion thereof that contains three or more dwelling units and, for the purpose of this Chapter, includes residential condominiums ~~(as adopted in Section 15.04.005).~~

"Appeal" means the process outlined in Section 15.34.090.

"Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity that undertakes any construction, demolition, addition, or alteration project within the City.

"Building official" means the officer or other designated authority charged with the administration and enforcement of the California Building Code ("CBC") and the City's amendments to the CBC ~~(as adopted in Section 15.04.005).~~

"CALGreen" means the California Green Building Standards Code, California Code of Regulations, Title 24, Part 11 as amended ~~July 28, 2019~~ July 1, 2020 and effective ~~January 1, 2020~~ January 1, 2023, as amended, supplemented, superseded and replaced from time to time.

"Construction" means the manner or method of building ~~(as adopted in Section 15.04.005).~~

"Construction and demolition debris," "C&D debris," or "construction debris" means materials resulting from construction, alteration, addition, renovation, repairs, and demolition ~~repair or demolition~~ operations on any house, residential property, commercial building, pavement

or other structure for which the City requires a building or demolition permit, or from a non-permitted municipal project. Construction and demolition debris includes but is not limited to rocks, soils, tree remains and other plant debris which results from land clearing or land development operations in preparation for construction. C&D debris may include materials that have been source separated.

~~"Covered residential projects" are projects that are subject to the residential mandatory measures, in the most current version of the Construction Waste Reduction, Disposal and Recycling section 4.408.1 of the California Green Building Standards Code 24 CCR, Part 11 as amended July 1, 2019, and effective January 1, 2020, which relate to residential construction waste management.~~

~~"Covered non-residential projects" are projects that are subject to the nonresidential mandatory measures, as stated in the most current version of the Construction Waste Reduction, Disposal and Recycling section 5.408.1 of the California Green Building Standards Code 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020, which relate to non-residential construction waste management.~~

~~"City covered projects" means all city construction, alteration, renovation, or demolition projects that are subject to the nonresidential mandatory measures, found in sections 5.408.1 and of the most current version of the Construction Waste Reduction, Disposal and Recycling sections of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019, and effective January 1, 2020, which relate to non-residential construction waste management.~~

"Demolition" means the deconstructing, destroying, razing, tearing down, or wrecking of any facility including its foundation, covered by this Chapter. As used herein, the word "demolition" shall include any partial demolition and any interior demolition affecting more than ten percent of the replacement value of the structure as determined by the Building Official. Demolition work includes: (1) proper handling of materials pursuant to applicable regulations and approved plans, if any, (2) termination of utilities serving the premises including permits and final inspections and approvals, (3) removal of driveways and repair of public sidewalks, as required, and (4) site cleanup and restoration including grading, landscaping, and fencing as required.

"Director" means the Public Works Director of the City of Oakland, or his/her designee.

"Divert," "diverted," or "diversion" means to use C&D debris for any purpose other than disposal in a landfill, incineration facility, or alternative daily cover. Methods to divert materials from landfills include reuse, salvage, and recycling.

"Diversion attainment" means at least 65 percent by weight of the total C&D debris is diverted on an affected project; or the diversion requirement in CALGreen, whichever is higher.

"Facility" shall mean a facility that receives and processes construction and demolition debris into its component material types for reuse, recycling, and disposal of residuals.

"Fixed body vehicle" means any wheeled motor vehicle that does not rely on a roll-off box or other detachable container to collect, contain and transport material.

"Hearing Officer" means the City staff designated by the City Administrator to whom appeals can be made under this Chapter.

"Historic resource" means those properties designated as historic properties as per Chapter 17 of the City of Oakland Planning Code.

"Non-affected projects" means projects that do not require a WRRP. Applicants for non-affected projects shall be encouraged to divert at least 65 percent of all project-related C&D debris.

"Non-exclusive franchise (NEF) agreement" means an agreement between the City and a debris hauling service to perform said services for Affected Projects per section 15.34.040.

"Non-permitted municipal projects" means construction and/or demolition projects on or of City-owned property, managed by City employees, which are not required to obtain a building or demolition permit.

"Qualified Third-Party Verifier" or "Verifier" refers to an individual or organization that evaluates processing capabilities and verifies ~~Recovery~~ diversion rates for mixed Construction and Demolition Debris Facilities and is approved by Oakland Public Works as a Qualified Third-Party Verifier.

"Renovation" means the process of improving a building to return it to good condition.

"Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, or thermally destroying C&D debris.

"Repair" means any construction or renovation to an existing structure other than alternation or addition.

"Reuse" means ~~recovering-diverting~~ material for repeated use in the same form. This includes materials that are reused at the same location as they are generated.

"Salvage" means the ~~recovering-diverting~~ of C&D debris from a building or demolition site for the purpose of ~~recycling~~, reuse, or proper storage for future ~~recycling or~~ reuse.

"Source separated" means materials that have been segregated from other C&D debris, for the purpose of diversion, by or for the generator thereof at the service address at which the materials were generated.

"Summary report" means the report to be submitted to the Building Official at the conclusion of the affected project and prior to the final inspection, issuance of a temporary certificate of occupancy, or certificate of occupancy.

"Targeted materials" means the C&D debris listed on the WRRP form that could potentially be reused, recycled, or salvaged.

"Third-Party Verification" refers to the process by which a Qualified Third-Party Verifier reviews and verifies the Facility ~~Recovery~~ diversion rates and evaluates the Facility fitness relative to the minimum Construction and Demolition Debris ~~Recovery-diversion~~ requirements set forth by Oakland Public Works.

"Third-Party Verification Report" is a report prepared by a Qualified Third-Party Verifier documenting the completion of a Third-Party Verification within the last 12 months and certifying that the Facility is a Verified Facility.

"Unpermitted materials" means wastes or other materials that Class III disposal sites may not receive under their permits.

"Verified Facility" refers to a Facility that has successfully completed Third-Party Verification and is therefore eligible to become a Registered Facility, subject to issuance of a Registered Facility Certification by Oakland Public Works.

"WRRP" means waste reduction and recycling plan.

"WRRP form" means a form, provided by the City for the purpose of compliance with this Chapter that must be submitted by the applicant for any affected project.

"WRR Review Official" means the Waste Reduction and Recycling Review Official who is the City staff designated and authorized by the City Administrator and is responsible for implementing this Chapter.

(Ord. No. 13672, 2021, Ord. No. 13315, §1, 6-22-2015)

#### **15.34.040 Collection and transportation and disposal of C&D debris.**

- A. Pursuant to the authority provided by Article X, Section 1000 of the Oakland City Charter, any franchise for the collection and transportation of C&D debris within the City may be granted by the City Administrator or designee on such terms and conditions as are determined by the City Council to be in the best interests of the City. Such terms and conditions shall be evidenced by a written ~~non-exclusive franchise~~ NEF agreement, approved in form by the City Council, and executed by the City Administrator and franchisee(s).
- B. It is unlawful to collect, transport or dispose of construction and demolition debris anywhere in the City except as provided for in this Chapter. It is unlawful for any person other than persons in possession of an non-exclusive franchise NEF agreement granted by the City, or those persons employed by such franchised collector(s) to collect or transport any construction and demolition debris within the City except:
  - 1. Donated Materials. Construction and demolition debris generated in the City that are donated by the generator.
  - 2. Materials Hauled by Owner or its Contractor. Construction and demolition debris that are removed from any service address and are transported to a processing or disposal site by:
    - (a) The owner of such service address;
    - (b) The full-time employee of the owner that uses the owner's equipment to transport materials; or
    - (c) A construction contractor or sub-contractor performing construction work at the service address, whose collection and transport of the C&D debris is incidental to the service being performed, provided that such contractor uses a fixed-body vehicle for the collection and transportation of the C&D debris, and such contractor collects and transports the materials at no additional or separate fee using contractor's employees and contractor's equipment. For purposes of this Section, except as set forth below, the term "incidental to the service being performed" shall mean that the material requiring collection and transportation is generated by the activity of the contractor performing the hauling.



- I. For example, a construction contractor who remodels a kitchen can collect and transport those materials related to such construction in a fixed body vehicle for no additional fee without obtaining a non-exclusive C&D debris franchise agreement granted by the City.
  - II. As an additional example, a contractor or sub-contractor whose responsibility with relation to the project is to clean up a site and transport C&D debris generated by other contractors or the owner/occupant must obtain a non-exclusive C&D debris franchise agreement from the City, and the collection and transport of such C&D debris from the site by such contractor is not considered as "incidental to the service being performed".
  - III. A contractor or sub-contractor whose WRRP is approved by the WRRP Review Official as subject to the "incidental to the service being performed" contractor exemption provided in this Section 15.34.040 subsection B.2(c), but that subsequently elects not to collect and transport C&D debris, must engage the services of a person or persons in possession of a non-exclusive franchise agreement granted by the City.
  - IV. Nothing in this Section shall authorize a demolition contractor performing demolition services in relation to a City-approved building or demolition permit to collect and transport C&D debris without obtaining an executed nonexclusive C&D debris franchise agreement granted by the City.
- (d) Projects on City Property. C&D debris removed from a project site by City employees, provided that the C&D debris being removed is generated from a City owned property.
  - (e) Where an owner or contractor is exempt from having to possess an NEF agreement pursuant to Section 15.34.040 subsection B, the owner or contractor must submit and abide by the recycling requirements noted in their approved WRRP. C&D debris must be taken to a facility that has Third-Party Verification as described in 15.34.040 subsection C.
- C. ~~Construction and demolition~~ C&D debris collected under this Chapter shall only be transported to and processed and/or disposed of at facilities permitted to accept, process and/or dispose of C&D construction and demolition debris under applicable law.
1. ~~Facilities permitted to accept, process and/or dispose of construction C&D debris and demolition debris for recycling~~ shall obtain Third-Party Verification to verify diversion rates.
  2. The Director shall establish a ~~program that requires~~ Third-Party Verification process/program with at disposal facilities and establish enforcement mechanisms.
  3. Facilities permitted to accept C&D debris shall implement computerized systems that automatically upload certified weight records, also known as a weight ticket or weighmaster certificate, into the City C&D waste tracking software at the time a weight record is generated for each load arriving at the facility. Certified weight records shall include:



- a. Facility name, location and contact information
  - b. Ticket number, date, time in and time out
  - c. Construction project site permit number
  - d. Waste tracking software record number (i.e. GHXX-XXX-XXXX)
  - e. Load origin (City)
  - f. Hauler name, address, and contact information
  - g. Hauler vehicle license number, motor carrier permit number, or other identifying information.
  - h. Load description (i.e., concrete, mixed C&D waste, etc.)
  - i. Amount of material delivered in tons, pounds or cubic yards
- D. The following materials shall not be collected under this Chapter unless a collector is otherwise authorized to do so by applicable law: hazardous waste (as defined by Section 8.28.010), medical waste (as defined by Section 8.28.010), unacceptable waste (as defined by Section 8.28.010), batteries, human waste and other potentially infectious material, and liquid wastes.
- E. ~~Nothing in this Section 15.34.040 shall prevent other persons from collecting, transporting, processing and/or marketing materials that have been source separated by material type.~~
- F. Pursuant to the authority provided in this Chapter 15.34.040 subsection A. the City Administrator may promulgate rules and regulations. create forms and issue guidelines as appropriate and necessary to implement the requirements of this Chapter 15.34.040.

(Ord. No. 13672, 2021, Ord. No. 13315, §1, 6-22-2015)

#### **15.34.045 City fees.**

The City may collect from non-exclusive C&D debris franchisees monies to recover the cost of administering the C&D debris program and in consideration of award of a franchise agreement.

(Ord. No. 13315, § 1, 6-22-2015)

#### **15.34.050 Submission of a waste reduction and recycling plan (WRRP).**

A. WRRP Forms. For affected projects, prior to issuance of a building or demolition permit, the applicant shall complete and submit a WRRP form to the City's Building Official. The completed WRRP form shall delineate all of the following:

- 1. The estimated volume or weight of the affected project C&D debris to be generated, listed by each type of material; and
- 2. Volume or weight of the C&D debris to be reused, salvaged or recycled listed by each type of material; and
- 3. The estimated volume or weight of C&D debris that will be landfilled listed by each type of material.

(Ord. No. 13315, § 1, 6-22-2015)

#### **15.34.060 Review of WRRP.**

A. Notwithstanding any other provision of this Chapter, no building or demolition permit shall be issued by the City for any affected project prior to approval of the WRRP by the WRR Review Official. Approval shall not be required if an emergency demolition is required to protect public health or safety pursuant to Section 15.36.080.

B. Using the established guidelines, the WRR Review Official shall approve a WRRP only if:

1. The WRRP provides all the information set forth in Section 15.34.050 of this Chapter; and
2. The WRRP indicates that at least ~~sixty-five (65)~~ 100 percent by weight of all inert C&D debris generated by the project will be diverted or reused; ~~or and~~
3. The WRRP indicates that at least 65 percent by weight of all non-inert C&D debris generated by the project will be diverted or reused; or
4. The applicant demonstrates good cause as to why at least 100 percent by weight of all inert C&D and/or at least 65 percent by weight of all non-inert C&D debris generated by the project will not be diverted.

If the WRR Review Official fails to approve the WRRP, he/she shall explain in writing the basis for denial.

(Ord. No. 13672, 2021, Ord. No. 13315, §1, 6-22-2015)

#### **15.34.070 Submission of a completed summary report.**

A. Documentation. At the conclusion of each affected project and prior to the final inspection, issuance of temporary certificate of occupancy, or certificate of occupancy by the City, the applicant shall submit to the Building Official a summary report which contains the following documentation:

1. The actual volume or weight of C&D debris that was diverted by type of material, diversion method, and the actual volume or weight of C&D debris that was not diverted;
2. Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this Chapter 15.34;
3. Any barriers encountered that prohibited diversion of C&D debris; and
4. Any recommended actions that would further the efforts to recycle C&D debris.

B. Determination of Diversion. The WRR Review Official shall review the information submitted under Section 15.34.050(A) to determine whether the applicant has diverted 65 percent by weight of the C&D debris based on established guidelines, as follows:

1. Diversion Attainment. The applicant shall be found to have achieved a diversion attainment if at least 65 percent by weight of the C&D debris generated by the affected project is diverted, and appropriate documentation as outlined in Section 15.34.070 is provided.
2. Good Faith Effort When the WRR Review Official determines that the affected project has not achieved diversion attainment, he/she shall determine whether the applicant has made a good faith effort to comply with this Chapter 15.34. In making this determination, the WRR Review Official may consider information submitted by the applicant, the availability of markets for the C&D debris that was not diverted, the size and type of

project, the documented efforts of the applicant to divert C&D debris, and barriers encountered.

3. Nonattainment. The WRR Review Official shall determine the affected project to have a nonattainment status if he/she determines that the applicant has not made a good faith effort to achieve diversion attainment or if the applicant fails to submit the documentation required by Section 15.34.070. All nonattainment information including applicant name, type and size of project, and any reason for nonattainment shall be documented by the WRR Review Official.

(Ord. No. 13672, 2021, Ord. No. 13315, §1, 6-22-2015)

**15.34.080 City's rights to monitor and inspect.**

A. Audit. City's WRR Review Official may inspect and monitor all affected projects to determine levels of actual diversion activities and validate the information provided in the WRRP and summary report.

B. Supporting Documentation. Applicant shall retain the receipts or weight tickets for the quantities of materials reused, salvaged, recycled and landfilled as indicated in the summary report form for one year after the final inspection, and issuance of temporary certificate of occupancy or certificate of occupancy.

C. Materials Targeted for Diversion. The City Administrator or his/her designee may change the C&D debris materials targeted for diversion from time to time, based on local markets and conditions to further the intent of this Chapter.

(Ord. No. 13315, § 1, 6-22-2015)

**15.34.090 Appeals.**

An appeal of the WRR Official's decision not to approve the WRRP shall be made to the Hearing Officer according to the following appeal procedures:

- A. Within ten calendar days after the date of a written decision by the WRR Review Official to deny the WRRP, an appeal in writing from said decision must be filed with the WRR Review Official by the applicant or any other interested party on a form prescribed by the WRR Review Official. The appeal shall state specifically the error, abuse of discretion, or claim where the decision of the WRR Review Official was not supported by substantial evidence in the record.
- B. Upon receipt of the appeal, the Hearing Officer shall set the date for consideration thereof and, not less than ten days prior thereto, give a written notice to the applicant and or appellant.
- C. In deciding the appeal, the Hearing Officer shall consider the purpose and intent, as well as the letter, of the pertinent provisions of this Chapter 15.34, and shall affirm, modify, or reverse the written decision of the WRR Review Official.
- D. The written decision of the Hearing Officer shall be final.

E. Appeal fees shall be in accordance with the City's master fee schedule.

(Ord. No. 13315, § 1, 6-22-2015)

**15.34.100 Violations, enforcement and remedies.**

A. **Penalty for Violation.** Any person convicted of an infraction under the provision of this Chapter shall be punished upon a first conviction by a fine of not more than \$100.00 and, for a second conviction within a period of one year, by a fine of not more than \$200.00 and, for a third or any subsequent conviction within a one-year period, by a fine of not more than \$500.00. Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period of not more than six months or by both.

B. **Continuing Violation.** Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person and shall be punishable accordingly as herein provided.

C. **Violations Deemed a Public Nuisance.** In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, and is declared and deemed a nuisance.

D. **Civil Actions.** In addition to any other remedies provided in this Chapter, any violation of this Chapter may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, as appropriate, any or all of the following remedies:

1. A temporary and/or permanent injunction;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection (including attorneys' fees);
3. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation (including attorneys' fees).

E. **Authority to Issue Citations.** Authorized enforcement officials or employees may issue a citation and notice to appear in the manner prescribed by Chapter 5c of Title 3, Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees or employees acting in the course and scope of employment pursuant to this Chapter.

F. **Administrative Enforcement Option.** Chapters 1.08, 1.12 and 1.16 of this Code, which provide for alternative code enforcement mechanisms, including but not limited to a civil penalty program and an administrative citation program, are incorporated by reference as if fully set forth herein.

G. Remedies Not Exclusive. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. No. 13315, § 1, 6-22-2015)

**SECTION 2. California Environmental Quality Act (CEQA).** The City Council finds that this Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared under the 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 of Oakland'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. As such, the City Council directs the City's Environmental Review Officer to file a Notice of Exemption with the County Clerk.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 4. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUN 20 2023

PASSED BY THE FOLLOWING VOTE:

AYES - ~~4~~ GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS - 7

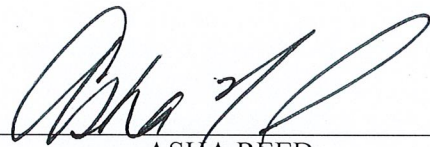
NOES - 0

ABSENT - 0

ABSTENTION - 0

1 Excused - Fife

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the  
City of Oakland, California

Introduction Date

JUN 6 2023

Date of Attestation:

July 5, 2023

## NOTICE AND DIGEST

**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**

The California Legislature adopted Senate Bill (SB) 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, which established methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants. SB 1383 and its regulations require the City of Oakland to adopt and enforce an ordinance that complies with SB 1383 and with new California Green Building Standards Code (CALGreen) requirements with respect to residential and non-residential construction waste management, and that mandates the recycling or salvaging for reuse a minimum of 65% of the nonhazardous construction and demolition (C&D) waste. To comply with and implement the CALGreen minimum 65% reuse requirement, the City adopted Ordinance 13672 on December 21, 2021 revising Chapter 15.34 (Construction and Demolition Debris Collection, Transportation, Waste Reduction and Recycling Requirements) of the Oakland Municipal Code. This ordinance clarifies the definition of affected projects to include all new construction, additions, alterations, repairs, and demolition, and requires 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. The City Council also made California Environmental Quality Act (CEQA) findings that the action does not require further environmental review beyond the SB 1383 program environmental impact report (EIR) and is otherwise, in the alternative, exempt from CEQA pursuant to exemption findings.