

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
BURBANK AMENDING PROVISIONS OF CHAPTER 7,
ARTICLE 20 OF THE BURBANK MUNICIPAL CODE
RELATING TO DIVERSION OF CONSTRUCTION AND
DEMOLITION DEBRIS.

City Attorney Synopsis

In 1994, the City adopted certain voluntary environmental building regulations (Burbank Municipal Code Sections 7-2001 *et seq.*) Through an incentive program with reduced permit fees, those voluntary standards were an attempt to encourage green buildings and sustainable architecture, which in turn, use key resources like energy, water, and materials more efficiently than other buildings. Three sustainability levels exist, and each requires the diversion of construction and demolition debris and materials. This Ordinance amends a portion of that voluntary program to make the diversion of 50% of all construction and demolition debris and materials mandatory for certain projects, including residential dwelling units and commercial buildings for which a building permit or demolition permit is required by this Code, unless specifically exempt. Exempt projects include new residential or commercial construction projects and/or residential or commercial alterations less than 500 square feet in area (including tenant improvements); projects for which only a plumbing permit, electrical permit, or mechanical permit is required; and projects where special circumstances exist whereby construction and demolition debris are minimized.

THE COUNCIL FINDS AS FOLLOWS:

A. The California Integrated Waste Management Act of 1989, commonly referred to as Assembly Bill 939 (AB 939), codified in substantial part at Public Resources Code Section 40000 *et seq.* requires each local jurisdiction in the state to divert 50% of discarded materials (base year 1990, state methodology) from disposal in landfills and transformation facilities.

B. Construction and Demolition (C & D) Debris constitute over 20% of the materials of the waste stream in the State and these materials have significant potential for waste reduction and recycling.

C. The reuse and recycling of C & D Materials would contribute to the City's efforts to reduce waste and comply with AB939 goals.

D. In October, 2004, the City adopted Ordinance No. 3652, as part of the City's Green Building and Sustainable Architecture provisions, which sets forth certain voluntary guidelines, which if utilized, certain permit fee incentive discounts could apply. Part of those provisions require the reuse and recycling of C & D Materials, allowing compliance of the Ordinance to be done on a voluntary basis. Despite providing permit

fee incentives, no one voluntarily utilized this Ordinance.

E. This Ordinance is based on the model ordinance developed by the California Integrated Waste Management Board to assist with diverting their construction demolition waste material.

THE COUNCIL OF THE CITY OF BURBANK ORDAINS AS FOLLOWS:

1. Section 7-2002 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-2002. Scope.

The provisions of this Division of this Chapter are voluntary and are a guideline adopted to assist owners desiring to incorporate sustainable building practices into residential or commercial building projects. This provision may be applied to all new residential and commercial construction, additions and renovations. An incentive program is set forth in Section 7-2008.

The provisions of Division Two of this Chapter are mandatory for applicable projects, as defined below. Wherever Construction and Demolition Materials is required for those applicable projects, those projects are not eligible for any sustainability incentives unless the projects exceed the minimum requirements.

2. Section 7-2003 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-2003. Sustainability Levels.

All projects submitted as part of the 'Green Building and Sustainable Architecture Program' shall meet the construction requirements in accordance with Table 2003 for Level I (Sec. 2004.1), Level II (Sec. 2004.2), or Level III (Sec. 2004.3) sustainability.

TABLE 2003			
	SUSTAINABILITY LEVEL		
	I	II	III
Construction and Demolition Waste in excess of code requirement	X	X	X
Storm Water Pollution Prevention * in excess of code requirements	X	X	X
Sustainable Building Methods and Materials	Not Required	X	See LEED™ Certification
LEED™ Certification	Not Required	Not Required	X

*Mandatory for specific project types. See Burbank Municipal Code Chapter 7, Article 19, 'Standard Urban Storm Water and Urban Runoff Management Programs'.

3. Section 7-2004 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-2004. Applicability.

Sustainability complying with Level I, II, or III requirements may be selected for any project. (See GREEN BUILDING AND SUSTAINABLE ARCHITECTURE REFERENCE MANUAL for recommended levels).

Sec. 7-2004.1. Level I Sustainability.

A. Construction and Demolition Waste

All Level I projects shall exceed the requirements of BMC Chapter 7, Article 20, Sections 7- 2010 et seq., 'Diversion of Construction and Demolition Debris'. (See also GREEN BUILDING AND SUSTAINABLE ARCHITECTURE REFERENCE MANUAL).

B. Storm Water Pollution Prevention

All Level I projects shall exceed the requirements of the applicable code sections of Burbank Municipal Code Chapter 7, Article 19, 'Standard Urban Storm Water and Urban Runoff Management Programs'. (See City of Burbank MUNICIPAL STORMWATER AND URBAN RUNOFF DISCHARGES MANUAL). Notwithstanding the foregoing, all Level I development construction and development planning projects required to meet the minimum stormwater pollution control standards specified in Article 19 shall exceed the requirements of the applicable code sections of Burbank Municipal Code.

Sec. 7-2004.2. Level II Sustainability.

A. Construction and Demolition Waste

All Level II projects shall exceed the requirements of BMC Chapter 7, Article 20, Section 7-2010 et seq., 'Diversion of Construction and Demolition Debris'. (See also GREEN BUILDING AND SUSTAINABLE ARCHITECTURE REFERENCE MANUAL)

B. Storm Water Pollution Prevention

All Level II projects shall comply with or exceed the requirements of the applicable code sections of Burbank Municipal Code Chapter 7, Article 19, 'Standard Urban Storm Water and Urban Runoff Management Programs'. (See City of Burbank MUNICIPAL STORMWATER AND URBAN RUNOFF DISCHARGES MANUAL). Notwithstanding the foregoing, all Level II development construction and development planning projects required to meet the minimum stormwater pollution control standards specified in Article 19 shall exceed the requirements of the applicable code sections of Burbank Municipal Code.

C. Sustainable Building Methods and Materials

All Level II projects shall achieve 50% of the point total for a 'LEED™ Certified' rating. The rating shall be in accordance with the most recent version of the LEED™ Green Building Rating System developed by the U.S. Green Building Council.

Sec. 7-2004.3. Level III Sustainability.

A. Construction and Demolition Waste

All Level III projects shall exceed the requirements of BMC Chapter 7, Article 20, Section 7-2010 et seq., 'Diversion of Construction and Demolition Debris'.

(See also GREEN BUILDING AND SUSTAINABLE ARCHITECTURE REFERENCE MANUAL).

B. Storm Water Pollution Prevention

All Level III projects shall comply with or exceed the requirements of the applicable code sections of Burbank Municipal Code Chapter 7, Article 19, 'Standard Urban Storm Water and Urban Runoff Management Programs'. (See City of Burbank MUNICIPAL STORMWATER AND URBAN RUNOFF DISCHARGES MANUAL). Notwithstanding the foregoing, all Level III development construction and development planning projects required to meet the minimum stormwater pollution control standards specified in Article 19 shall exceed the requirements of the applicable code sections of Burbank Municipal Code.

C. LEED™ Certification

All Level III projects shall achieve a 'LEED™ Certified' rating, or greater. The rating shall be in accordance with the most recent version of the LEED™ Green Building Rating System developed by the U.S. Green Building Council.

EXCEPTION:

(1) Where California Building Code standards, or Burbank Municipal Code provisions exceed LEED™ requirements, the California and City of Burbank standards shall apply.

Project types not currently covered under an approved LEED™ Rating System are not eligible for Level III sustainability until an applicable LEED™ Rating System has been adopted by the USGBC.

4. Section 7-2005 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-2005. Plans and Submittal Documents.

Plans and specifications shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed as a part of the 'Green Building and Sustainable Architecture Program', and show in detail that it will conform to the provisions of this section and all other applicable sections of the California Building Code and the Burbank Municipal Code.

A. Plans

Every set of plans submitted for a permit as a part of the 'Green Building and Sustainable Architecture Program' shall include on the cover sheet:

(1) The Sustainability Level for the project.

(2) A tabulation of the construction and/ or demolition materials being recycled, and the name of the recycler, as to those amounts of materials recycled which are in excess of the required amounts set forth in Division 2 of this article.

(3) A tabulation of the sustainable building materials to be incorporated in the project, the product manufacturer, and the recycled content of the product.

(4) If LEED™ certification is a part of the project, the proposed certification level shall be listed.

(5) A list of construction Best Management Practices (BMPs) to be used.

(6) A list of structural and/or treatment BMPs to be installed in the project.

B. Additional Documentation

Every application for a permit under the 'Green Building and Sustainable Architecture Program' requirements shall include:

(1) Waste Management Plan (WMP), as required in BMC Chapter 7, Article 20.

(2) Storm Water Pollution Prevention Plan (SWPPP), when required in BMC Chapter 7, Article 19.

(3) Wet Weather Erosion Control Plan (WWECP), when required in BMC Chapter 7, Article 19.

(4) Waste Discharge Identification Number (WDID), when required in BMC Chapter 7, Article 19.

(5) Owner's Certification (SW01), as required in BMC Chapter 7, Article 19.

5. Section 7-2008 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-2008. Fees.

The permit and plan review fee incentive discount for participation in the 'Green Building and Sustainable Architecture Program' shall be as set forth in the GREEN BUILDING AND SUSTAINABLE ARCHITECTURE REFERENCE MANUAL. The GREEN BUILDING AND SUSTAINABLE ARCHITECTURE REFERENCE MANUAL dated November 20, 2004, and as it may be amended from time to time, is incorporated herein by this reference. A copy shall be kept at the Building counter. Fees shall be set forth in the Burbank Fee Resolution.

6. Section 7-2009 of the Burbank Municipal Code is amended to read as follows:

Sec. 7-2009. Enforcement.

No final inspection shall be approved, no Certificate of Occupancy issued, and no building or structure shall be used or occupied until the Building Official has determined that the applicant has complied with the requirements of this Division.

In instances where the applicant has failed to comply with the requirements of this Article, the incentive discount shall be returned to the City by the applicant prior to approval of any final inspection, or issuance of a Certificate of Occupancy.

7. Division 2 of Article 20 of the Burbank Municipal Code is amended to read as follows, and since this amendment replaces the existing code, the following is not redlined:

Sec. 7-2010. Purpose.

The purpose of this Division, known as the Diversion of Construction and Demolition Debris Ordinance, is to reduce the amount of construction and demolition debris deposited into landfills by implementing source reduction, diversion, and recycling goals for certain applicable construction and demolition projects.

Sec. 7-2011. Definitions.

For the purposes of this Article, the following definitions shall apply. Words and phrases not ascribed a meaning by this Division shall have the meaning ascribed by Public Resources Code Sections 40000, *et seq.*, the regulations of the California Integrated Waste Management Board, if defined therein, as such may be amended from time to time, and in the Resource Conservation and Recovery Act (RCRA) 42 USC §§ 6901, *et seq.*, and the regulations implementing RCRA, as they may be amended from time to time.

“Applicant” means any person, firm, limited liability company, association, partnership, political subdivision, governmental agency, municipality, industry, public or private corporation, or any other entity whatsoever required to apply to the Building Department for an applicable permit to undertake construction, renovation, remodeling, repair, deconstruction, or demolition operations.

“*Applicable Project*” means a project for which a building, demolition, or other similar permit is required by this Code, and not otherwise exempt in this Division.

“*Construction and Demolition Debris*” or “*C&D Debris*” means used or discarded materials removed from property of an Applicable Project during construction, remodeling, repair, renovation, demolition or deconstruction resulting from construction, renovation, remodeling, repair, deconstruction, or demolition operations on any house, commercial building or other structure. Construction and Demolition Debris include, but are not limited to, concrete, asphalt, brick, lumber, tile, carpeting, plastic, aluminum, glass, metals, gypsum wallboard, roofing materials, carpeting, wood, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from construction, remodeling, renovation, repair and demolition operations on pavements, houses, commercial buildings and other structures.

“*Construction and Demolition Debris Diversion Reference Manual*” or “*Manual*” means a manual prepared by the Building Division of the Community Development Department to assist in implementation of this Division. A copy of the Manual shall be available at all times at the Building Division public counter.

“*Construction and Demolition Diversion Security Deposit*” or “*Diversion Security Deposit*” means any performance bond, surety bond, money order, letter of credit, certified check, cash, certificate of deposit or similar type of security, in a form acceptable to the City, and submitted to the City pursuant to Section 7-2012 of this Division.

“*Estimated Debris Generation Rate*” means the rate set forth in the standardized Estimated Debris Generation Rate Table approved by the City for use in estimating the volume or weight of materials identified in a Waste Management Plan. The approved conversion rate shall be set forth in the Manual.

“*Divert or diversion*” means activities which reduce or eliminate the amount of C&D Material from disposal in a landfill or transformation facility.

“*Diversions Requirement*” means the diversion of at least fifty percent (50%) of the total Construction and Demolition Debris generated by an Applicable Project by reuse or recycling, unless the permit applicant has been granted an exemption pursuant to Section 7-2016.

“*Exempt Project*” shall have the meaning set forth in Section 7-2016 of this Division.

“*Project*” means any activity for which a permit for a building, demolition or other permit is required.

“*Recycling Summary Report*” and “RSR” means a completed Recycling Summary Report form approved by the City and which is the report that shows compliance with the Waste Management Plan.

“*Reuse*” means the recovery or reapplication of a product or material in a manner. For example, the reuse of products such as light fixtures, doors or used brick is considered source reduction, not recycling.

“Waste Management Plan” and “WMP” means a completed Waste Management Plan form, approved by the City for the purpose of compliance with this Division, submitted by the permit applicant for all Applicable Projects.

Sec. 7-2012. Diversion of Construction and Demolition Debris and Submission of Waste Management Plan.

A. Diversion Requirement and Waste Management Plan Submission. Except as otherwise provided in this Division, each Applicant for a permit required by this Code for an Applicable Project shall complete and submit a Waste Management Plan (“WMP”) as part of the application packet for the building permit, unless the project is exempt, as defined below, certifying that the Diversion Requirement will be met. On or after July 1, 2007, no building or demolition permit shall be issued by the Building Department unless the Applicant for a construction or demolition permit for an Applicable Project has submitted to the Building Department an approved Waste Management Plan. The Building Official shall approve the WMP if it complies with the following provision.

B. Form of the WMP. The completed WMP must be signed by the Applicant and shall indicate all of the following:

1. the site address;
2. the names, addresses, and phone numbers of the property owner and the general contractor;
3. the existing square footage, the proposed square footage, the percentage of increase in project size, or the square footage of the structure to be demolished;
4. the estimated volume or weight of construction and demolition debris, by material type, to be generated on the project site;
5. the estimated volume or weight of construction and demolition debris, by material type, to be diverted to recycling, reuse or salvage;
6. the vendor or facility that the applicant proposes to use to collect or receive that material;
7. the estimated volume or weight of the construction and demolition materials that will be landfilled;
8. certification that the minimum Diversion Requirement will be met;

9. such other data and information as may be required by the Building Official;
10. other information Applicant believes is relevant to determining its efforts to comply with this Division.

C. Calculating Volume and Weight of Material. In estimating the volume or weight of materials identified in the WMP, the applicant shall use the Estimated Debris Generation rates approved by the City for this purpose and as indicated in the Construction and Demolition Debris Diversion Manual.

D. Construction and Demolition Diversion Security Deposit. A refundable deposit shall be paid by the Applicant prior to the approval of any BWP, in an amount specified in the Fee Resolution. The deposit may be refunded without interest, in total, upon proof of satisfaction by the Building Official that no less than the Diversion Requirement generated by the Applicable Project has been diverted from disposal and has been recycled or reused or stored for later reuse or recycling in accordance with Section 7-2013. The deposit shall be forfeited entirely if Applicant fails to comply with the requirements of this Division. The deposit will not be refunded to any project that began work before obtaining all required permits as determined by the Building Official. The deposit shall be returned no later than thirty (30) days after approval of the RSR.

E. An non-refundable administrative fee will be collected with the deposit as specified in the Fee Schedule.

Sec. 7-2013. Reporting Compliance with WMP.

A. Documentation. No later than 30 days after the Final Inspection is approved by the City, which date may be extended if City provides Applicant with a letter confirming the extension, the Applicant shall submit to the Building Official documentation that it has met the Diversion Requirement for the project in the form of the Recycling Summary Report (RSR). The Diversion Requirement shall be that the applicant has diverted at least 50% of the total construction and demolition debris generated by the project via reuse or recycling. This RSR shall be approved by the Building Official if it includes all of the following:

1. receipts from a licensed vendor or facility that collected or received each material showing the actual weight or volume of that material;
2. a copy of the previously approved WMP for the project adding the actual volume or weight of each material diverted and landfilled;
3. any additional information the Applicant believes is relevant to determining its efforts to comply with this Division.

B. Weighing of Wastes. Applicant shall make reasonable efforts to ensure that all construction and demolition material is measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition material shall be weighed by measurement on scales in compliance with all regulatory requirements for accuracy and maintenance. For materials for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the Building Official for this purpose.

C. Incentive to Exceed Minimum Debris Diversion. Applicant may participate in a Sustainable Building Voluntary Program in Division One if the RSP exceeds minimum

requirements. In such case, the Applicant may apply to the Building Official after completion of the program to obtain a refund of permit fees up to that amount offered by the incentive program.

Sec. 7-2014. WMP must be kept on site.

A copy of the WMP shall be kept on the site of the building or work at all times during which the work is in progress and must be made available to the Building Official to allow verification of the provisions of this Division.

Sec. 7-2015. Violation of Division.

If the Applicant fails to comply with the requirements of this Division, the Construction and Demolition Diversion Security shall be retained by the City, and in addition, the City shall have the right to pursue either criminal prosecution or the appropriate civil action to enforce the requirements of this Code.

Sec. 7-2016 Exempt Projects.

No Construction and Demolition Debris Security Deposit or a Waste Management Plan shall be required for any of the following:

1. Work for which a building permit or demolition permit is not required by this Code.
2. Any new construction project (residential or non-residential), and /or alterations less than 500 square feet in area
3. Projects for which only a plumbing permit, electrical permit, or mechanical permit is required.
4. Demolition or construction required to protect public health or safety in an emergency.
5. Projects which may technically fall within this Division, but due to special circumstances, Construction and Demolition debris are minimized as determined by the Building Official.

Section 7-2017. Building Official Interpretations.

The Building Official may interpret this Division as needed, publishing any interpretations at the Building Counter, or in the Construction and Demolition Debris Diversion Manual from time to time.

8. This code amendment is exempt from the California Quality Environmental Act pursuant to CEQA Guidelines Sec.15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

9. The City Clerk shall certify to the passage of this Ordinance and cause the

City Attorney Synopsis of this ordinance to be published once in a newspaper of general circulation, published and circulated in the City of Burbank, California.

10. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after publication; however, the Ordinance shall not be applicable until July 1, 2007.

11. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof has been deleted.

18. The Estimated Debris Generation Rate set forth in the Manual is approved.

PASSED AND ADOPTED this ____ day of _____, 2007.

Todd Campbell
Mayor of the City of Burbank

Attest:

Margarita Campos, CMC, City Clerk

Approved as to Form and Legal Content:
Dennis A. Barlow, City Attorney

By: _____
Mary F. Riley, Sr. Asst. City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF BURBANK)

I, Margarita Campos, CMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. _____ was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the ____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSENT:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Burbank, California on the ____ day of _____, 2007.

Margarita Campos, CMC, City Clerk