

**ORDINANCE NO. 320**

**AN ORDINANCE OF THE CITY COUNCIL OF LAKE FOREST, CALIFORNIA TO ADD CHAPTER 16.12 TO THE LAKE FOREST MUNICIPAL CODE REGARDING CONSTRUCTION AND DEMOLITION DEBRIS**

**WHEREAS**, the City of Lake Forest is required to enforce the California Building Standards Code, including CalGreen; and

**WHEREAS**, CalGreen require certain projects to recycle or reuse significant amounts of construction and demolition debris; and

**WHEREAS**, the City wishes to ensure compliance with these mandates through a security deposit system used by numerous cities and counties throughout the State; and

**WHEREAS**, the City Council has reviewed and considered the staff report, staff's recommendations, and all written and oral testimony in connection with the proposed Ordinance; and

**WHEREAS**, all legal prerequisites to the adoption of the Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council.

SECTION 2. CEQA. The City Council finds that this Ordinance is not subject to the requirements of California Environmental Quality Act ("CEQA") for the following reasons. First, this Ordinance is not "project" within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in direct or indirect physical change in the environment. Second, this Ordinance is exempt under Section 15061(b)(3), the general rule exemption, because it can be seen with certainty that there is no possibility that this code amendment will have a significant effect on the environment. The City Council, therefore, directs that a Notice of Exemption for this ordinance be filed with the County Clerk of the County of Orange in accordance with State CEQA Guidelines.

SECTION 3. Effective January 1, 2020, Chapter 16.12 is hereby added to the Lake Forest Municipal Code to read in full as set forth in Exhibit A, incorporated by this reference.

SECTION 4. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of

Lake Forest, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code, Section 36933.

SECTION 5. Records. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 25550 Commercentre Drive, Suite 100, Lake Forest, CA 92630.

SECTION 6. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this Ordinance are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.


**PASSED, APPROVED, AND ADOPTED** this 16th day of July, 2019.

  
MARK TETTEMER  
MAYOR

ATTEST:

  
MARIA D. HUIZAR  
CITY CLERK

APPROVED AS TO FORM:

  
MATTHEW E. RICHARDSON  
CITY ATTORNEY

COUNTY OF ORANGE            ) SS  
CITY OF LAKE FOREST        )

I, Maria Huizar, City Clerk of the City of Lake Forest, California do hereby certify that the foregoing Ordinance No. 320 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 2nd day of July 2019, and thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 16th day of July, 2019, by the following vote, to wit:

AYES:            COUNCIL MEMBERS: MOATAZEDI, ROBINSON, VOIGTS  
NOES:            COUNCIL MEMBERS: NONE  
ABSENT:          COUNCIL MEMBERS: BASILE, TETTEMER  
ABSTAIN:         COUNCIL MEMBERS: NONE

  
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MARIA D. HUIZAR  
CITY CLERK

## EXHIBIT A

### CHAPTER 16.12 - CONSTRUCTION AND DEMOLITION DEBRIS DIVERSION

- 16.12.000. Declaration of purpose.**
- 16.12.005. Definitions.**
- 16.12.010. Minimum construction and demolition debris requirements.**
- 16.12.015. Waste reduction and recycling plan (WRRP) required.**
- 16.12.020. Certified recycling facilities.**
- 16.12.025. Construction and demolition debris diversion security deposit.**
- 16.12.030. Refund of security deposit.**
- 16.12.035. Forfeiture and city use of security deposit.**
- 16.12.040. Application fee.**
- 16.12.045. Reporting.**
- 16.12.050. Appeal—Construction and demolition debris diversion requirements.**
- 16.12.055. Construction and demolition debris ordinance enforcement.**

#### **16.12.000. Declaration of purpose.**

The purpose of this Chapter is to promote the recycling of C&D debris in order to protect the public health, safety, and welfare and to meet the City's obligations under AB 939 and the California Building Standards Code.

#### **16.12.005. Definitions.**

A. "Building permit" means a permit required under the California Building Standards Code as adopted by the City for construction, demolition or otherwise.

B. "Construction and demolition debris" or "C&D debris" means used or discarded non-hazardous materials resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure and such other materials as may be removed during the normal cleanup process of such construction, remodeling, repair, or demolition operations.

C. "C&D compliance official" means the City's Public Works Director or designee.

D. "Covered project" means any project subject to the C&D debris diversion requirements of the current version of the California Building Standards Code as adopted by the City..

E. "WRRP" means the waste reduction and recycling plan for a covered project.

#### **16.12.010. Minimum construction and demolition debris requirements.**

All covered projects shall reuse, recycle, salvage or divert the minimum percentage or amount of C&D debris as required by the then applicable version of the California Building Standards Code. Compliance with this Chapter shall be a requirement of any building permit for a covered project.

#### **16.12.015. Waste reduction and recycling plan (WRRP) required.**

A. Except as otherwise specified in this Chapter, each applicant who applies for a building permit for a covered project shall submit a WRRP with the applicable application fee. No building permit shall be issued for a covered project 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 C&D debris (by type and amount) to be diverted from disposal by recycling, reuse on the project or salvage for future use or sale;
2. Whether C&D debris will be sorted on-site or bulk mixed;
3. The vendor(s) that the applicant proposes to use to haul the materials (if any);
4. The certified recycling facility(s) the materials will be hauled to, and their expected diversion rates by material type;
5. Construction methods employed to reduce the amount of C&D debris generated; and
6. Estimated volume or weight of C&D debris that will be disposed and the method to be utilized to calculate C&D debris diversion.

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 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. No building 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 the 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 Chapter;
2. The WRRP indicates how the minimum percentage amount of all C&D debris generated by the project shall be diverted; and
3. The permit applicant has submitted an appropriate security deposit for the project.

E. If the C&D compliance official determines that the WRRP is incomplete or fails to indicate how at least the minimum percentage or 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 permit application; or

2. Return the WRRP to the applicant marked "Further Explanation Needed."

**16.12.020. Certified recycling facilities.**

For the purposes of this Chapter, 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 amount or percentage established in this Chapter of all incoming C&D debris. 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 Chapter.

**16.12.025. Construction and demolition debris diversion security deposit.**

A. Except as otherwise specified in this Chapter, each applicant who submits a WRRP for a covered project, shall remit a security deposit (cash, cashier's check, personal check, money order) in the amount equal to three percent of the estimated value of the project or \$500.00, whichever is higher with a maximum of \$10,000 per permit. The security deposit is remitted at the same time the permit application is filed. The City Council may adjust the amount of the required security deposit by resolution.

B. No security deposit shall be required for building permits for emergency demolition if required to protect the public health or safety as determined by the C&D compliance official.

**16.12.030. Refund of security deposit.**

A. The C&D compliance official may authorize the refund of any security deposit, which was erroneously paid or collected.

B. The C&D compliance official may authorize the refund of any security deposit when the building permit application is withdrawn or cancelled before any work has begun.

C. The C&D compliance official may authorize the refund of a security deposit when the applicant has satisfactorily submitted the "C&D debris recycling and disposal report summary" provided for in Section 16.12.045, and at least the minimum diversion requirements provided for in Section 16.12.010 has been met.

D. If the C&D compliance official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with this Chapter. The C&D compliance official may authorize a partial refund of a security deposit when less than the minimum diversion requirement is met.

The partial refund shall not exceed that portion of the security deposit that is in the same ratio as the amount of diverted waste divided by the amount of required diversion.

E. Any deposit will be returned without interest.

**16.12.035. Forfeiture and city use of security deposit.**

A. If the C&D compliance official determines that the applicant has not made a good faith effort to comply with this Chapter, or if the applicant fails to submit the documentation required by Section 16.12.045 within 60 days from the date of the final inspection, then the deposit is forfeited to the City.

B. Forfeited security deposits may be used by the City for solid waste and recycling related purposes, including but not limited to:

1. Plan, implement, or promote solid waste diversion programs.
2. Develop, inspect, certify, or improve the infrastructure needed to divert waste from landfilling.
3. Educate generators and handlers of solid waste in the City regarding solid waste recycling and disposal alternatives.

**16.12.040. Application fee.**

As a part of any application for, and prior to the issuance of, any building permit, every applicant for a covered project shall pay to the City a fee sufficient to compensate the City for all expenses incurred in reviewing the WRRP and reviewing performance of the plan. This fee may be adopted and amended by resolution of the City Council.

**16.12.045. 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 WRRP. 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 shall identify the certified recycling facility(s) that received materials, if applicable, and 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 and 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 Chapter, require a higher percentage of diversion for construction than established in this Chapter, 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 C&D debris was generated from the covered project. In which case, this statement shall be subject to verification by the C&D compliance official.

**16.12.050. Appeal—Construction and demolition debris diversion requirements.**

Upon payment of an appeal fee set forth in a resolution of the City Council, the applicant may appeal to the City Manager any decision of the C&D compliance official under this Chapter. Notice of appeal from the decision of the compliance official must be filed with the City Manager's Office within 10 days of the date of the decision being appealed. The notice of appeal sets forth in concise language that particular decision or decisions complained of and the reason why the person feels aggrieved thereby. Failure to file a notice of appeal within the time prescribed herein constitutes a waiver of any objection to the decision(s) of the C&D compliance official and such decision(s) shall be final; otherwise, the decision of the City Manager (or his/her designee) is final.

**16.12.055. Construction and demolition debris ordinance enforcement.**

A. Violations of this Chapter are punishable pursuant to Chapter 16.11.

B. In addition to these penalties, if violations of the provisions of this Chapter exist as to a covered project requiring completion of a WRRP, the City may use various administrative measures to ensure compliance. Measures available include, but are not limited to:

1. Issuance of a building permit or a certificate of occupancy for that project may be withheld until all such violations have been corrected;
2. Issuance of a stop work notice, until all such violations have been corrected;
3. Stopping all inspections on subject project, until all such violations have been corrected; and
4. Other measures recommended by the City Attorney.