

ORDINANCE NO. 713

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRWINDALE AMENDING CHAPTER 8.20 (SOLID WASTE COLLECTION AND SALVAGE OF RECYCLABLE MATERIALS) OF TITLE 8 OF THE IRWINDALE MUNICIPAL CODE TO ESTABLISH CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING AND REUSE REGULATIONS

WHEREAS, under California law as embodied in the California Waste Management Act of 1989 (AB 939), California Public Resources Code Sections 40000 et seq., the City of Irwindale ("City") is required to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in the volume of waste materials going to the landfills, or face fines up to \$10,000 per day; and

WHEREAS, in order to meet the goals established by AB 939, it is necessary that the City promote the reduction of solid waste, and more particularly, the stream of solid waste going to landfills; and

WHEREAS, construction and demolition (C&D) waste can be a significant portion of a jurisdiction's waste stream, and diverting it from landfills can help jurisdictions achieve and maintain their diversion goals established by AB 939; and

WHEREAS, waste from C&D and renovation of buildings represents a significant portion of the volume of waste presently coming from the City's jurisdiction, and much of this waste is particularly suitable for recycling and reuse; and

WHEREAS, diverting C&D waste from landfills can help jurisdictions such as the City achieve and maintain its diversion goals established by AB 939; and

WHEREAS, the City's commitment to the reduction of waste requires the establishment of programs for recycling and salvaging of C&D waste; and

WHEREAS, certain types of projects are exempt from these requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRWINDALE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that the above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Section 8.20.010 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby amended by adding the third paragraph and shall now read as follows:

"8.20.010 - Legislative policy.

The city council finds and determines that storage, accumulation, collection and disposal of refuse, trash, rubbish, solid waste, debris and other discarded material, as well as recyclable material, is a matter of great public concern, in that improper control of such matters creates a public nuisance, which may lead to air pollution fire hazards, illegal dumping, vector breeding and infestation and other problems affecting the health, welfare and safety of the residents of Irwindale and surrounding cities. The city council further declares that regulations provided in this chapter are designed to eliminate or alleviate such problems.

Further, the Legislature of the state of California has enacted the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code, § 40000, et seq.) (the "Act" hereinafter) which evidences the substantial public health, safety and welfare needs of the citizens of the state with regard to the appropriate utilization of the resources of the state and directs the cities thereof to embark upon aggressive solutions to the generation of solid waste and the disposal thereof. The Act declares that the responsibility for solid waste management is a shared responsibility of both the state and local governments and establishes goals and objectives for the management of solid waste, including substantial penalties for failure by local government to effectively manage the solid waste generated within the community by means of source reduction and recovery programs, including recycling activities. Pursuant to the Act, this city has adopted its source recovery and recycling element and this chapter is intended to assist in the implementation thereof.

Under the Act, the city is required to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in volume of waste materials going to the landfills. Recycling and reuse of construction and demolition debris is essential to further the city's efforts to comply with the goals of the Act. The recycling and reuse of construction and demolition debris has been proven to significantly reduce the amount of material that is disposed in landfills. Except in unusual circumstances, it is feasible to recycle and reuse a minimum of 65 percent of all construction and demolition debris."

SECTION 3. Section 8.20.020 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby amended by adding the following new definitions and replacing the definitions for the terms "recycling", and "salvage". These definitions shall be placed in alphabetical order along with the existing definitions and shall read as follows:

"Applicant: Any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake construction, remodeling or demolition project within the City."

Construction: The building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure and includes, without limitation, alterations or improvements to an existing structure.

“Construction and demolition debris: Non-hazardous excess or discarded materials which are to be removed from a site during or after the construction, renovation, repair or demolition of any housing, commercial or industrial building or other structure, fence, wall or paving.”

“Conversion rate: The rate set forth in the standardized conversion rate table approved by the City pursuant to this chapter for use in estimating the volume or weight of materials identified in a Waste Diversion Plan.”

“Covered Project: Shall have the meaning set forth in Chapter 8.20.311.”

“Demolition: The partial or complete decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, (wall, fence) whether in whole or in part, whether interior or exterior.”

“Divert/Diversion: To use construction and demolition debris for any purpose other than disposal in a landfill, incineration facility, or alternative daily cover. Methods to divert materials from landfills include but are not limited to reuse, salvage, and recycling.”

“Project: Any activity, which requires an application for a building (renovation) or demolition permit, or any similar permit from the City.”

“Recycling: The process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.”

“Renovation: Any change, addition, or modification of an existing structure.”

“Reuse: Further or repeated use of construction or demolition debris.”

“Salvage: The controlled removal of construction or demolition waste/material from a permitted building, construction, or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.”

“Waste Diversion Plan: A completed Waste Diversion Plan (WDP) form, approved by the City for the purpose of compliance with this Chapter, submitted by the Applicant for any Covered Project.”

SECTION 4. Section 8.20.301 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.301 – Construction and demolition debris-recycling program.

The purpose of the construction and demolition debris-recycling program is to meet AB 939 obligations by requiring all applicants of relevant projects to divert a minimum of sixty-five percent (65%) of the construction and demolition debris resulting from construction, renovation, and demolition projects. The amount of materials will be

calculated by weight or volume, but not both. Additionally, this chapter will serve to establish a program to secure compliance with the above stated diversion requirements.”

SECTION 5. Section 8.20.311 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.311 – Construction and demolition debris-recycling program – Minimum standards, covered projects, and exemptions.

A. Diversion Requirement. It is required that all construction, renovation, and demolition projects covered under this section shall divert, through recycling and/or salvage for reuse, a minimum of sixty-five percent (65%) of non-hazardous construction and demolition debris or the amount required in the most current adopted County of Los Angeles Green Building Standards Code, whichever is more stringent. This value is to be calculated by weight or volume, but not by both.

B. Covered Projects. Covered projects shall include:

1. All newly-constructed, additions, and alterations to residential and commercial buildings within the City shall be subject to the provisions of this section. Failure to comply with any of the terms of this section shall subject the project applicant to the full range of enforcement mechanisms set forth in the Irwindale Municipal Code.

2. All city construction, renovation, and demolition projects within the city shall be considered “covered projects” for the purpose of this section and shall be subject to all applicable provisions of this section.

C. Exemptions. The following projects are exempt from the requirements of this section:

1. Work for which a building or demolition permit is not required;
2. Work for which only a plumbing, only an electrical, and/or only a mechanical permit is required;
3. Roofing projects that do not include tear-off of existing roof;
4. Seismic tie-down projects;
5. Projects where no structural building modifications are required;
6. Emergency demolition required to protect the public health and safety;
7. Commercial/Industrial alterations that are 500 square feet or less; and
8. Installation, replacement or repair of the following:
 - a. Retaining wall;

- b. Patio cover;
- c. Deck;
- d. Fence;
- e. Swimming pool or spa;
- f. Sign;
- g. Storage racks;
- h. Commercial Shade Structures (i.e. Canopy);
- i. Pre-fabricated modular building/home;
- j. Windows;
- k. Partitions; and
- l. Foundations.

Notwithstanding the foregoing, it shall be encouraged, that at least 50% of all project-related existing construction and demolition waste from Exempt projects be diverted.

D. Request for Exemption Due to Infeasibility. In the event that an Applicant for a covered project experiences circumstances that the Applicant believes it is infeasible to comply with the required diversion rate, the Applicant may apply for a diversion requirement exemption at the time of application. The following process shall apply:

1. The Applicant shall indicate on their submittal the maximum rate he or she believes is feasible for each material and the specific circumstances that he or she believes it is infeasible to comply with the diversion requirement.

2. The Building Official or his/her designee shall review the information supplied by the Applicant and may meet with the Applicant to discuss feasible ways of meeting the diversion requirement. Based on the information supplied by the Applicant, the Building Official or his/her designee shall determine whether it is feasible for the Applicant to meet the diversion requirement.

3. If the Building Official or his/her designee determines that it is infeasible for the Applicant to meet the diversion requirements, he or she shall determine the maximum feasible diversion rate for waste generated by the project and shall indicate the new diversion requirement the Applicant shall be required to meet, and will inform the Applicant in writing of the new requirement.

4. If the Building Official or his/her designee determines that it is possible for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing, and the applicant will be required to comply with the applicable provisions of this section.”

SECTION 6. Section 8.20.312 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.312 – Construction and demolition debris-recycling program – Waste Diversion Plan.

A. Prior to starting the covered project, as specified in Section 8.02.311.B, every Applicant shall indicate if they will use the City's exclusive franchise waste hauler, or if they will self-haul construction and demolition debris and refuse from the project site to meet the diversion rate.

B. Applicants shall be required to submit a properly completed Waste Diversion Plan (WDP) to the City, in a form as prescribed by the City, as a portion of the building or demolition permit process. The preliminary WDP submitted prior to starting the project shall contain the following:

1. Project information, project description, and project scope;
2. Applicant and owner information;
3. Owner responsibility form;
4. Determine if materials will be sorted on-site or mixed;
5. The estimated weight or volume of project construction and demolition debris to be generated, by material type;
6. The maximum weight or volume of such materials that can feasibly be diverted via reuse, recycling or salvage by material type;
7. Estimated weight or volume of construction and demolition debris that will be sent to a landfill; and
8. Facility(s) the materials will be hauled to, and their expected diversion rates (by volume or weight) by material type.

C. Because actual material weights are not available in this stage, estimates are used. In estimating the weight or volume of material as identified in the WDP, the Applicant shall use the standardized conversion rates approved by the City for this purpose. No building or demolition permit shall be issued for any covered project, as specified in Section 8.02.311.B, unless and until the WDP has been approved by the Building Official or his/her designee. Approval shall not be required, however, where emergency demolition is required to protect health or safety. The WDP shall only be approved if all of the following conditions have been met:

1. The WDP provides all of the information set forth in this section;
2. The WDP indicates that 65% of non-hazardous construction and demolition debris, or the amount required in the most current adopted County of Los Angeles Green Building Standards Code, whichever is more stringent, shall be diverted; and
3. The Applicant has submitted an appropriate Deposit for this project.

D. During the term of the covered project, as specified in Section 8.02.311.B, the Applicant shall recycle and reuse the required percentage of waste and keep records of the tonnage (i.e. weight tickets) or other measurements approved by the City.

E. The Applicant shall submit documentation (i.e. weight tickets, final compliance report) to the City that proves compliance with Chapter 8.20.311 Diversion Requirement prior to the final inspection. A final inspection or certificate of occupancy will not be issued until all documentation has been submitted and approved by the Building Official or his/her designee. The documentation shall consist of a final completed WDP showing the actual waste tonnage data, supported by original or certified photocopies of receipts and weight tickets or other records of measurement from recycling companies, deconstruction contractors, and/or landfill and disposal companies. Receipts and weight tickets will be used to verify whether waste generated from the covered project has been or will be recycled, reused, salvaged or disposed. The applicant shall make reasonable efforts to ensure that all designated recyclable and reuse debris salvaged or disposed are measured and recorded using the most accurate method of measurement available.

F. To the extent practical, all construction and demolition waste shall be weighed in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition waste for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used.”

SECTION 7. Section 8.20.313 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.313 – Construction and demolition debris-recycling program – Deposit

A. As a standard condition to the issuance of any permit for construction, renovation, or demolition for a covered project, as specified in Section 8.02.311.B, the Applicant shall post a deposit (cash, letter of credit, performance or surety bond, money order) as follows:

1. For residential projects, the amount of the deposit will be a flat fixed rate of \$150.

2. For commercial/industrial projects, the deposit amount will be a minimum of \$250 and shall not exceed \$30,000. The formula used to determine the deposit for commercial/industrial projects is 3% of the total cost of the project/building (valuation) being constructed or demolished.

B. The deposit shall be returned, without interest, in total or pro-rated, upon proof of satisfaction by the City that no less than the required percentage of construction and demolition debris generated by the covered project has been diverted from disposal and has been recycled, reused, or stored for later reuse or recycling. If a lesser percentage of construction and demolition debris than is required is diverted, a proportionate share of the deposit shall be returned.

C. The deposit shall be forfeited entirely or to the pro-rated extent that there is a failure to comply with the requirements of this chapter.”

SECTION 8. Section 8.20.400 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.400 – Administrative Citations.

Violations of this Chapter 8.20 may be enforced in accordance with the provisions set forth in Chapter 1.16 (Administrative Citations) of the Irwindale Municipal Code, notwithstanding any limitations on applicability set forth therein.”

SECTION 9. Section 8.20.410 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.410 – Standards, guidelines, and criteria.

The Building Official or his/her designee may establish and/or adopt standards, guidelines, and criteria consistent with this chapter, which are reasonably necessary to achieve the objectives of this chapter.”

SECTION 10. Section 8.20.420 of Chapter 8.20 of Title 8 of the Irwindale Municipal Code is hereby added and shall read as follows:

“8.20.420 – Inspections, inquiries, and audits.

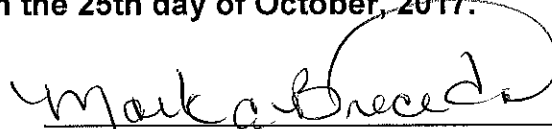
The Building Official or his/her designee may make any and all inspections, inquiries, and audits as the director may deem necessary to determine compliance with this chapter.”

SECTION 11. The City Council hereby authorizes and directs the Mayor and the City Clerk to execute this Ordinance on behalf of the City of Irwindale forthwith upon its adoption.

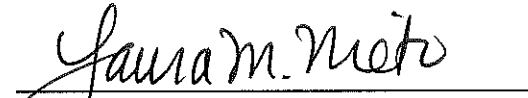
SECTION 12. The Deputy City Clerk shall certify as to the passage of this Ordinance and shall cause the same to be published and/or posted at the designated locations in the City of Irwindale.

SECTION 13. The City Council hereby finds and determines that it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment. Thus, the adoption of this ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b) (3) of the CEQA Guidelines. City staff is directed to prepare and file a Notice of Exemption under the California Environmental and Quality Act (CEQA) in connection with this Ordinance.

PASSED, APPROVED AND ADOPTED on the 25th day of October, 2017.


Mark A. Breceda, Mayor

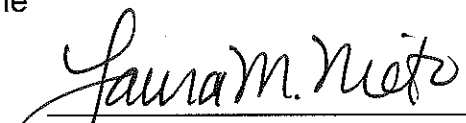
ATTEST:


Laura M. Nieto, MMC
Chief Deputy City Clerk

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

I, Laura M. Nieto, Chief Deputy City Clerk of the City of Irwindale, California, do hereby certify that the foregoing Ordinance No. 713 was introduced for first reading at a regular meeting of the City Council of the City of Irwindale held on October 11, 2017, and adopted on second reading at a regular meeting of the City Council of the City of Irwindale held on October 25, 2017, and was carried by the following-roll call vote:

AYES: Councilmembers: Ambriz, Burrola, Garcia, Ortiz, Mayor Breceda
NOES: Councilmembers: None
ABSENT: Councilmembers: None
ABSTAIN: Councilmembers: None


Laura M. Nieto, MMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Laura M. Nieto, Chief Deputy City Clerk, certify that I caused a copy of Ordinance No. 713 adopted by the City Council of the City of Irwindale at its regular meeting held October 25, 2017, to be posted at the City Hall, Library, and Post Office on October 26, 2017.


Laura M. Nieto, MMC
Chief Deputy City Clerk

Dated: 10/26/17