

## **PLEASANT HILL CONSTRUCTION & DEMOLITION ORDINANCE**

### **IMPLEMENTATION PLAN**

The State of California requires that each local jurisdiction in the state divert 50% of discarded materials from landfills. Construction and Demolition (C&D) debris make up approximately 30% of California's waste stream. Reusing and recycling C&D debris is essential to furthering the City's efforts to reduce waste and comply with AB 939 goals.

Except in unusual circumstances, it is feasible to divert an average of at least 50% of all C&D debris from construction, demolition and renovation projects. The City adopted the C&D Ordinance in July 2003 which requires all construction, demolition or renovation projects costing \$50,000 or more or involving more than 5,000 square feet to divert at least 50% of all debris from landfill.

To ensure compliance with this ordinance and to ensure that those contractors that do comply are not placed at a competitive disadvantage, it is necessary to request a performance security requirement or deposit (see table below for calculation of the amount).

#### **APPLICABLE PROJECTS**

Any project involving construction, demolition, or renovation where:

1. The **TOTAL COST** of the project is expected to be \$50,000 or more, or
2. For commercial projects, if it will involve 5,000 or more square feet of space, or
3. For residential projects, if it will involve 600 or more square feet of space.

#### **Waste Management Plan – Performance security.**

- A. **WMP application.** Each applicant for a building, demolition or encroachment permit (for a regulated project) shall submit a completed waste management plan (WMP) with the application and prior to obtaining a building permit. The completed WMP shall include all of the following:
  1. The total square footage of the area to be constructed or demolished; and
  2. A list of the C&D debris material types to be generated; and
  3. The identity of the vendor(s) or facility(ies) that the applicant proposes to use to collect or receive that material; and
  4. An acknowledgement of responsibility that the applicant understands the consequences of not meeting the 50% diversion requirement and that the

applicant is responsible for the actions of their contractors or other agents with regard to the diversion requirement.

In preparing the WMP, an applicant for a plan check involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage before placing in a landfill.

**B. Performance security.**

1. Requirement. The applicant for any regulated project shall submit a performance security. The amount of the performance security shall be calculated as a percentage of the project’s total cost, as follows:

<b>Project Total Costs – \$</b>	<b>Performance Security – %</b>	<b>Performance Security – \$</b>
50,000 – 500,000	2.00	1,000 – 10,000
500,001 – 1,000,000	1.75	10,000 – 17,500
1,000,001 – 2,000,000	1.50	17,500 – 30,000
2,000,001 – 5,000,000	1.25	30,000 – 62,500
Above 5,000,000	1.00	62,500 and up

2. Form of security. The performance security may be a performance bond, surety bond, money order, letter of credit, certificate of deposit, cash, escrow account, or alternate security approved by the city attorney.

**Compliance with WMP**

**A. Applicant’s documentation.**

Before the issuance of a certificate of occupancy of any regulated project, the applicant shall submit to the chief building official documentation that it has met the diversion requirement for the project. This documentation shall include all of the following:

1. Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material. (The documentation may be for commingled loads when appropriate);
2. A copy of the approved WMP, with the addition of the actual volume or weight of each material diverted or placed in a landfill;
3. Any additional information the applicant believes is relevant in determining efforts to comply in good faith with this chapter.

**B. Weighing of wastes.**

An applicant shall make reasonable efforts to ensure that all C&D debris diverted or placed in a landfill is measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For C&D debris 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 table approved by the city for this purpose.

**C. Determination of compliance and release of performance security.**

The chief building official shall review the information submitted under PHMC § 14.40.050 and determine whether the applicant has complied with the diversion requirement, as follows:

- a. **Full compliance.** If the chief building official determines that the applicant has fully complied with the diversion requirement, he or she shall cause the full performance security to be released to the applicant within 30 days of the applicant's submission of the documentation required under subsection A of this section.
- b. **Good faith effort to comply.** If the chief building 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. In making this determination, the chief building official shall consider the availability of markets for the C&D debris placed in a landfill, the size of the project, and the documented efforts of the applicant to divert C&D debris. If the chief building official determines that the applicant has made a good faith effort to comply with this chapter, he or she shall release the performance security, or a portion of it in proportion to the degree of compliance, to the applicant within 30 days of the applicant's submission of the documentation required under subsection A of this section.
- c. **Noncompliance.** If the chief building 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, then, at the chief building official's discretion, (a) the certificate of occupancy will not be issued, or (b) the performance security shall be forfeited to the city, or (c) both.
- d. **Use of forfeited security.** Forfeited performance securities shall be deposited into a special account and used for the purposes of (a) payment of any fines which may be assessed against the city, and (b) promoting diversion and recycling within the city.