

ORDINANCE NO. 2016-421

**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF LOS ALTOS AMENDING
THE LOS ALTOS MUNICIPAL CODE, BY ADDING A NEW ARTICLE 6.14
ENTITLED “COLLECTION, RECYCLING AND DISPOSAL OF WASTE
GENERATED FROM CONSTRUCTION, DEMOLITION, AND RENOVATION
PROJECTS WITHIN THE CITY OF LOS ALTOS”**

WHEREAS, the City Council of the City of Los Altos (“City”) finds that the State of California through its California Waste Management Act of 1989 (AB 939) and Alternative Compliance Act of 2008 (SB 1016) requires that each local jurisdiction in the State divert 50% of discarded materials from landfill garbage disposal on a per capita basis; and

WHEREAS, City desires to implement a program to support its achievement of the goal to increase the diversion of materials from landfill disposal and transformation facilities to reach 78% diversion; and

WHEREAS, the City finds that construction, demolition and renovation waste materials (C&D materials), which are comprised of the left over material resources and other wastes resulting from deconstruction, demolition, construction and renovation projects, constitute a significant portion of divertible waste generated within the City; and

WHEREAS, the City finds that the California Green Buildings Standards Code (CALGreen) currently requires certain residential and commercial construction and demolition projects to recycle or divert a minimum of 50% of nonhazardous C&D materials; and

WHEREAS, the City finds that many C&D materials can be diverted from landfill disposal via recycling, composting, reuse, and other methods including use as biomass conversion and alternative daily cover; and

WHEREAS, the City finds that diversion of C&D materials described herein is essential to further the City’s efforts to reduce waste and comply with AB 939, AB 32, AB 341, help achieve the State’s 75% diversion goal by 2020 and the City’s goal of 78% diversion, and exceed CALGreen diversion requirements; and

WHEREAS, the City finds that building projects can seek to divert C&D materials via a number of means, including: deconstruction and/or reuse; recycling by source separation; and commingled collection and sorting of mixed C&D materials with the purpose of diverting C&D materials; and

WHEREAS, the City finds that deconstruction, reuse, and recycling by source separation of C&D materials are the most desirable ways to ensure that resources are used to their highest potential by reducing upstream waste, and reducing the City’s ecological footprint; and

WHEREAS, the City finds that deconstruction, reuse and recycling by source separation of C&D materials may not be possible for all building projects due a variety of reasons, including but not limited to cost, type of building, project design, and site space available for waste management activities; and

WHEREAS, the City finds that commingled collection and sorting of mixed C&D materials with the purpose of recycling divertible C&D materials is an important strategy to ensure maximum diversion; and

WHEREAS, the City finds that generators of C&D materials in the City may either use debris boxes provided by the City's franchised hauler or self-haul C&D materials; and

WHEREAS, the City's franchised hauler of debris boxes provides source separated and commingled collection of C&D materials and recycles those loads at solid waste facilities that are known to achieve high levels of diversion of C&D materials; and

WHEREAS, the City currently does not receive or retain information regarding the amount of diversion achieved by those who self-haul their C&D materials; and

WHEREAS, projects that self-haul C&D materials are not currently required to provide the City with adequate documentation of compliance with the CALGreen 50% diversion requirement and may or may not achieve the same diversion of C&D materials that is possible with the City's franchised hauler; and

WHEREAS, the City finds that it may certify solid waste facilities that recycle source separated and/or commingled C&D materials with the purpose of diverting maximum levels of C&D materials; and

WHEREAS, the City may furthermore require all C&D materials generated by applicable building projects within the City to be directed to City-certified solid waste facilities; and

WHEREAS, the City finds that all applicable building projects must provide documentation of diversion of C&D materials to the City prior to final inspection so that the City may demonstrate compliance with CALGreen; and

WHEREAS, such documentation of diversion of C&D materials will provide the City with the ability to identify trends and opportunities to affect increased diversion of C&D materials; and

WHEREAS, the City finds that it may be necessary in the future to develop an incentive or other program, at the City's discretion, to support the provision of debris box services through the City's franchised hauler and/or otherwise direct C&D materials to certified facilities.

NOW THEREFORE, the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE. Los Altos Municipal Code is hereby amended by adding to Title 6 a new Chapter 6.14 entitled “Collection, Recycling and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects within the City of Los Altos.”

CHAPTER 6.14 – COLLECTION, RECYCLING AND DISPOSAL OF WASTE GENERATED FROM DECONSTRUCTION, DEMOLITION, CONSTRUCTION AND RENOVATION PROJECTS WITHIN THE CITY OF LOS ALTOS

6.14.010 Definitions.

- A. “Alternative daily cover (ADC)” means cover material other than earthen material placed on the surface of the active face of a municipal solid waste landfill at the end of each operating day to control vectors, fires, odors, blowing litter, and scavenging.
- B. “Applicant” means 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 any construction, demolition or renovation project within the City.
- C. “Biomass conversion” means the controlled combustion, when separated from other solid waste and used for producing electricity or heat, of (1) agricultural crop residues; (2) bark, lawn, yard, and garden clippings; (3) leaves, silviculture residue, tree and brush pruning; (4) wood, wood chips, and wood waste; or (5) non-recyclable pulp or non-recyclable paper.
- D. “CALGreen” means the 2013 Green Building Standards Code, as adopted by the City per Ordinance No. 2013-395, Chapter 12.26 of the City’s Municipal Code.
- E. “CALGreen diversion requirement” means the requirement to recycle and/or salvage for reuse a minimum threshold of the non-hazardous C&D waste in accordance with CALGreen Section 4.408 (residential projects) and Section 5.408 (non-residential projects). This threshold is 50% for the 2013 Green Building Standards Code, and may change over time as the Green Buildings Standards Code is amended and adopted by the City. If the requirement to recycle and/or salvage for reuse in CALGreen is changed, including but not limited to changes in the percentage of required recycling/salvage for reuse, changes in the section numbers referring to recycling requirements, or changes in the definition of recycling, then this definition will refer to the appropriate terms and sections in the most updated and adopted Green Building Standards Code.
- F. “Certified facility” means a solid waste processing or reuse facility determined to process incoming C&D materials to divert those materials from landfill disposal or transformation for which the City has issued a certification.
- G. “City Manager” means the City Manager of the City of Los Altos, or his/her designee, including City employees or entities hired by the City to implement the requirements of this Ordinance.
- H. “C&D materials” or “Construction and demolition debris” means commonly used or discarded materials removed from deconstruction, demolition, construction, remodeling, repair or renovation operations on any pavement, house, commercial

building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks, concrete, copper, electrical wire, fiberglass, formica, granite, iron, lead, linoleum, marble, plaster, plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble. Construction and demolition debris does not include exempt waste.

- I. “Deconstruction” means a process to carefully dismantle or remove usable materials from structures prior to, or as an alternative to, demolition.
- J. “Debris box” means any ten (10) to forty (40) cubic yard container, or any compactor provided by a solid waste generator, placed in the public right-of-way, on City property, private property, or elsewhere in the service area, which is procured by a solid waste generator for their use in the collection of their solid waste. Debris boxes are serviced by means of lifting the entire container, including all contents, onto a designated collection vehicle.
- K. “Diversion” or “Diverted” means a reduction of the amount of waste being disposed in a landfill or transformation facility by any of the following methods:
 - 1. Use of new construction methods, as described in regulations promulgated by City, that reduce the amount of waste generated.
 - 2. On-site re-use of the waste.
 - 3. Source separation: sorting of different waste materials at its point of generation for more efficient recycling or final disposal.
 - 4. Delivery of the waste from the site to a Certified facility.
 - 5. Other methods as approved in regulations promulgated by the City.
- L. “Divertible C&D materials” means C&D Materials that can be diverted from landfill through deconstruction, reuse, and/or recycling subject to current technologies and market conditions.
- M. “Franchised hauler” means a hauler holding a franchise, contract, license or permit issued by the City which authorizes the exclusive or non-exclusive right to provide solid waste handling services within all or part of the jurisdictional boundaries of the City.
- N. “Generator” means the Applicant for or the owner of a project that generates C&D materials.
- O. “Project” means any residential or non-residential construction, demolition or renovation which is required to recycle C&D materials per CALGreen.
- P. “Recyclable materials” or “recyclables” mean those materials separated from garbage by the generator which are capable of being recycled and which would otherwise be processed or disposed of as garbage.
- Q. “Recycling” means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise become garbage and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which

meet the quality standard necessary to be used in the market place. Recycling does not include transformation as defined in Public Resources Code §40201.

- R. “Reuse” means using an object or material again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.
- S. “Self-haul” means when an applicant or generator collects C&D materials or other solid waste at their premises or place of business for the purpose of hauling those materials in their own vehicles to permitted solid waste facilities (for garbage and organics) or facilities that accept and responsibly process other solid wastes (excluding garbage and organics) in compliance with the requirements of this Ordinance.
- T. “Solid waste” means garbage, recyclable materials, organic materials, construction and demolition debris, large items, E-waste, universal waste or exempt waste.
- U. “Source separate” means the process of removing recyclable materials from garbage at the place of discard generation, prior to collection, into separate containers that are separately designated from recyclable materials, organic materials, or garbage for the purposes of recycling.
- V. “Transformation” means incineration, pyrolysis, distillation, gasification or biological conversion other than composting. “Transformation” does not include composting or biomass conversion.

6.14.020 General Provisions.

- A. **Building Permit Applicants Responsible for Compliance.**
Each applicant, as defined in 6.14.010(B), shall be responsible for ensuring and demonstrating its compliance with the requirements of this Chapter, for all projects that are required to recycle C&D materials per CALGreen.
- B. **C&D Materials Diversion Required.**
Each applicant shall divert C&D materials through deconstruction, reuse, and/or recycling for each applicable project. Applicants can recycle C&D materials by using the services of the City’s franchised hauler or by self-hauling C&D materials to certified facilities.
- C. **Exemptions.**
Diversion of C&D materials is not required for work for which a building permit is not required or for projects that require a building permit but do not meet the thresholds for recycling C&D materials per CALGreen. It is unlawful to split or separate a project into small work projects for the purpose of evading the requirements of this Section 6.14.020.

6.14.030 Certification Standards for C&D Facilities.

The City may certify solid waste processing or reuse facilities that have been determined to process divertible C&D materials for diversion from landfill disposal or transformation in compliance with these standards. The City may certify a C&D facility if the owner/operator

of the facility demonstrates and documents all of the following to the satisfaction of the City Manager:

- A. That the facility has obtained all applicable Federal, State, and local permits, and is in full compliance with all applicable regulations;
- B. That sorting of mixed C&D materials is conducted such that recycling of divertible C&D materials is maximized; and
- C. That the facility achieves a minimum level of 50% diversion every month, with supporting documentation of diversion of C&D materials for the prior 12 months. Facilities that achieve levels of diversion equal to or greater than the level of diversion achieved by the facilities used by the City's franchised hauler will receive preference for C&D certification by the City.

Certification of C&D facilities shall be by City resolution or at the determination of the City Manager. The City may require site visits to facilities by the City or its designee to verify the accuracy of information provided by the operator/owner. The City may conduct recertification of certified facilities annually or as necessary to ensure that the above-mentioned standards are met for each facility. The City will make available to each applicant a current list of certified facilities and the applicant shall name the franchised hauler and/or certified facilities that will be used for the disposition of C&D materials in the design verification documentation submitted for the project.

6.14.040 Documentation.

- A. **Design Verification.**
Except as otherwise specified in this Chapter, on or after the date this Ordinance is enacted, prior to issuance of a building permit, each applicant whose project is required to recycle C&D materials per CALGreen must verify that C&D materials generated by the project will be diverted via one or more of the following methods:
 - 1. Deconstruction and/or reuse of C&D materials;
 - 2. Source separation and diversion of C&D materials with the franchised hauler or at a certified facility; or
 - 3. Commingled collection and sorting of mixed C&D materials with the franchised hauler or at a certified facility.
- B. **Implementation Verification.**
Except as otherwise specified in this Chapter, on or after the date this Ordinance is enacted, each applicant whose project is required to recycle C&D materials per CALGreen shall provide the City with documentation of compliance with this Ordinance prior to final building inspection. Documentation of C&D materials diversion includes receipts from the franchised hauler, weight tickets from certified facilities for all loads delivered for recycling, or such additional information deemed

necessary by the City to document accomplishment of the requirements of this Ordinance.

6.14.050 Incentive Program for Debris Box Diversion.

The City, at its discretion, may develop and offer incentive programs as necessary to support the provision of debris box diversion services through the franchised hauler and/or otherwise direct C&D materials to certified facilities.

6.14.060 Nuisance Prohibited.

No person, applicant or generator shall accumulate C&D materials or solid waste in any amount or in any manner that creates a nuisance per this Chapter or per Chapter 6.12.040 (Nuisance and littering) or violates Chapter 8.20.090 (Parking for more than 72 hours). If such accumulation creates a nuisance, or if trailers or other methods of collecting, storing and transporting C&D materials is in violation of the City's parking code, the City Manager may require its immediate removal and/or require a removal schedule.

6.14.120 Enforcement.

A. City Manager Authorization.

The City Manager is authorized to administer and enforce the provisions of this Chapter. The City Manager, or anyone designated by the City Manager to be an enforcement officer, may exercise such enforcement powers. If the City Manager determines that an applicant or generator of C&D materials is in violation of this Chapter or of any rule or regulation adopted pursuant to this Chapter, the City Manager may begin enforcement proceedings. Public nuisance proceedings and/or code enforcement proceedings under the City's code shall apply, in addition to the administrative penalties approved by resolution of the City Council, as modified from time to time. Enforcement proceedings may include issuing notices of violation, requiring changes in the Project's diversion methods or assessing administrative fines.

B. Administrative Citations and Orders.

If the City Manager determines that an applicant or generator of C&D materials is in violation of this Chapter, the City Manager may issue administrative citations or orders pursuant to the Los Altos Municipal Code Chapter 1.30, for violations of this Chapter or of any rule or regulation adopted pursuant to this Chapter, except as otherwise provided in this Chapter. The City's procedures on imposition of administrative fines are hereby incorporated in its entirety and shall govern the imposition, enforcement, collection and review of administrative citations or orders issued to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter, provided, however, that the City Manager may adopt regulations providing for lesser penalty amounts. The City Manager has the authority to impose administrative penalties for the notices of violations.

C. Additional Remedies.

The City Attorney may seek injunctive relief or civil penalties in the superior court in addition to the above remedies and penalties. All administrative civil penalties collected from actions pursuant to this section shall be paid to the City and shall be deposited into a solid waste administrative account that is available to fund activities to implement the applicable provisions of this section. Any remedy provided under this section is cumulative to any other remedy provided in equity or at law. Nothing in this Chapter shall be deemed to limit the right of the City or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the City or its authorized collection agent(s). The fees and penalties imposed under this Chapter shall constitute a civil debt and liability owing to the City from the persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law. Nothing in this Chapter shall be deemed to impose any liability upon the City or upon any of its officers or employees including without limitation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). This Chapter does not do any of the following:

1. Otherwise affect the authority of the City Manager to take any other action authorized by any other provision of law.
2. Restrict the power of a City attorney, district attorney or the attorney general to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.
3. Prevent the City Manager from cooperating with, or participating in, a proceeding specified in 6.12.120.
4. Affect in any way existing contractual arrangements, including franchises, permits or licenses, previously granted or entered into between the franchised hauler and City.

6.12.140 Forms, Regulations and Guidelines.

The City Manager may adopt necessary forms, rules, regulations and guidelines which may be necessary or desirable to aid in the administration or enforcement of the provisions of this Chapter. The City may provide information on its website regarding what materials are accepted as C&D Materials under this Chapter.

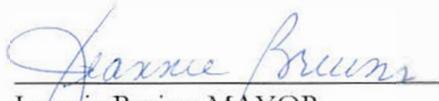
SECTION 2. CONSTITUTIONALITY. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 3. PUBLICATION. This Ordinance shall be published as provided in Government Code section 36933.

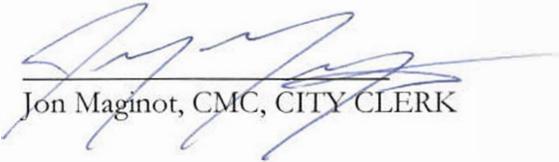
SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the adoption date.

The foregoing ordinance was duly and properly introduced at a regular meeting of the City Council of the City of Los Altos held on August 23, 2016 and was thereafter, at a regular meeting held on September 13, 2016 passed and adopted by the following vote:

AYES: BRUINS, MORDO, PEPPER, PROCHNOW, SATTERLEE
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE


Jeannie Bruins, MAYOR

Attest:


Jon Maginot, CMC, CITY CLERK



STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) CERTIFIED COPY OF ORDINANCE
CITY OF LOS ALTOS) SECOND READING/ADOPTION

I, Jon Maginot, City Clerk for the City of Los Altos in said County of Santa Clara, and State of California, do hereby certify that the attached is a true and correct copy of Ordinance No. 2016-421, adopted by the Los Altos City Council on September 13, 2016 by the following vote:

AYES: BRUINS, MORDO, PEPPER, PROCHNOW, SATTERLEE
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE

I hereby further certify that a summary of the ordinance was published in accordance with Government Code Section 36933 on the following dates: August 31, 2016 and September 21, 2016. Said ordinance shall be effective October 14, 2016

Dated this 27th day of September, 2016.


Jon Maginot, CMC
City Clerk