

Appendix C

Model Construction & Demolition Diversion Ordinance

California Integrated Waste Management Board Model Construction and Demolition Diversion Ordinance

To use the form online, you may fill in the blanks. Please use the Tab key to advance to the next fillable blank. To modify the text of the form, unprotect the form by clicking on the tools menu bar and choosing the unprotect option. You may then change text, remove instructions, or add rows to tables. If you have the Forms tool bar active, you can also click on the "Protect Form" icon on the forms tool bar.

If you have any questions, please contact your OLA representative at (916) 341-6199.



ORDINANCE NO. [] (*Insert ordinance number*)

ORDINANCE OF THE CITY/COUNTY OF [] (*Insert jurisdiction name*)
AMENDING THE [] (*Insert jurisdiction name*) **MUNICIPAL CODE, ADDING**
CHAPTER [] (*Insert chapter number*) **RELATING TO RECYCLING AND**
DIVERSION OF CONSTRUCTION AND DEMOLITION WASTE

The Governing Body of the City/County of [] (*insert jurisdiction name*) **does hereby enact as follows:**

Chapter [] (*insert chapter number*) **[Recycling and Diversion of Construction and Demolition Waste]** is hereby added to Title [] (*insert title number*) of the City/County of []'s (*insert jurisdiction name*) **Municipal Code to read as follows:**

Chapter []: (*insert chapter number*) **Recycling and Diversion of Construction and Demolition (C&D) Waste**

Section [] .01. []: (*insert section number*) **Findings and Statement of Intent**

Section [] .02. []: (*insert section number*) **Definitions**

Section [] .03. []: (*insert section number*) **Diversion Requirement**

Section [] .04. []: (*insert section number*) **Diversion Requirement Exemption**

Section [] .05. []: (*insert section number*) **Threshold**

Section [] .06. []: (*insert section number*) **Waste Management Plan**

Section [] .07. []: (*insert section number*) **Deposit Required**

Section _____.08. _____. : (insert section number) **On-Site Practices**

Section _____.09. _____. : (insert section number) **Reporting**

Section _____.10. _____. : (insert section number) **Fines/Penalties**

Section _____.11. _____. : (insert section number) **Appeals**

Section _____.12. _____. : (insert section number) **Option to Revise**

Section _____.13. _____. : (insert section number) **Severability**

Section _____.01. : Findings and Statement of Intent

RESOLVED, by the Governing Body of the City/County of _____, (insert jurisdiction name) California, that:

WHEREAS, under California law as embodied in the California Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.), the City/County of _____ (insert jurisdiction name) 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;

WHEREAS, in order to meet these goals it is necessary that the City/County promote the reduction of solid waste, and reduces the stream of solid waste going to landfills; and

WHEREAS, waste from construction, demolition, and renovation of buildings represents a significant portion of the volume of waste presently coming from the City/County of _____, (insert jurisdiction name) and much of this waste is particularly suitable for recycling and reuse;

WHEREAS, the City's/County's commitment to the reduction of waste requires the establishment of programs for recycling and salvaging of construction and demolition (C&D) waste;

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

NOW, THEREFORE, THE Governing Body OF THE CITY/COUNTY OF _____, (insert jurisdiction name) CALIFORNIA, ORDAINS THAT:

Chapter _____ (insert chapter number) is added to the _____ (insert jurisdiction name) Municipal Code.

Section .02.: Definitions

(Note to jurisdictions: It is suggested jurisdictions include a list of definitions in the ordinance, for example, covered projects, exempt projects, and types of activities that qualify as diversion. Examples of applicable definitions can be viewed in the sample ordinances located on the Board's [C&D Debris Recycling](#) Web page. The Board's Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements also contain applicable definitions that may be used.)

Section .03.: Diversion Requirement

It is required that at least [redacted] (*insert waste diversion goal here*) of waste tonnage from construction, demolition, and renovation waste shall be diverted from disposal. *(Note to jurisdictions: it is encouraged that the goal be at least 50 to 75%, but the goal needs to reflect the jurisdiction's conditions. Also, some jurisdictions set separate goals for demolition projects than for construction projects, or individual diversion goals for each material type, some of which could be higher than 75%, e.g., for concrete/asphalt. In addition, jurisdictions should be aware that clean inerts disposed in engineered fills are not counted as disposal or diversion in the Board's CDI regulations [PRC Section 41821.3 (h)].*

Section .04.: Diversion Requirement Exemption

- a. Application: If an Applicant for a Covered Project experiences circumstances that the Applicant believes make it infeasible to comply with the Diversion Requirement, the Applicant may apply for a diversion requirement exemption at the time that he or she submits the Waste Management Plan (WMP) required under **Section .06.** (Waste Management Plan) of this Ordinance.
- b. Meeting with Compliance Official: The WMP Compliance Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss feasible ways of meeting the diversion requirement. Upon request of the jurisdiction, the WMP Compliance Official may request that staff from [redacted] (*insert agency name*) attend this meeting or may require the Applicant to request a separate meeting with this agency. *(Note to jurisdictions: this will be a local agency that provides waste diversion assistance.)* Based on the information supplied by the Applicant and, if applicable, the [redacted] (*insert agency name*) agency listed above, the WMP Compliance Official shall determine whether it is feasible for the Applicant to meet the Diversion Requirement.
- c. Granting of Exemption: If the WMP Compliance Official 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. The Applicant shall then have [redacted] (*insert number of days*) days to resubmit another WMP, which is in compliance with the new diversion requirement. If the Applicant fails to resubmit, or if the resubmitted WMP does not comply with **Section .06** (Waste Management Plan), the WMP Compliance Official shall

disapprove the WMP in accordance with Section _____.06 (Waste Management Plan).

Section _____.05.: Thresholds for Covered Projects

(Note to jurisdictions: Consider options one through three. In addition to the options presented, many other variations are included in the sample ordinances on the Board's Web page. For example, some jurisdictions include multi-family structures only over a certain number of units. As a general rule, demolition activities generate significantly larger amounts of C&D waste per dollar than new construction activities, so you should consider setting a lower threshold for demolition projects and a higher one for projects not including demolition. However, in some areas of the state, demolition contractors routinely recycle their project waste, so you may want to first determine if that is true for your jurisdiction, and for what size of project, before requiring that demolition projects be subject to the ordinance.)

Option One (Threshold Based on Project Cost)

- A. Covered Projects (Construction and Renovation): All construction and renovation projects within the City/County, the total costs of which are projected to be greater than or equal to \$_____, (*insert threshold dollar amount*) shall comply with Chapter _____, shall submit a Waste Management Plan prior to beginning any construction or renovation activities, and shall be subject to the provisions of this Chapter. (*For ordinances including Fines or Penalties, insert the following text*) Failure to comply with any of the terms of Chapter _____ shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section _____.10 (Fines/Penalties) below.
- B. Covered Projects (Demolition): All demolition projects within the City/County, the total costs of which are projected to be greater than or equal to \$_____, (*insert threshold dollar amount*) shall comply with Chapter _____, shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. (*For ordinances including Fines or Penalties, insert the following text*) Failure to comply with any of the terms of Chapter _____ shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section _____.10 (Fines/Penalties) below.
- C. Non-Covered Projects (Construction and Renovation): Applicants for construction and renovation projects within the City/County whose total costs are less than \$_____ (*insert threshold dollar amount*) are not required, but shall be encouraged, to divert at least _____ (*insert diversion requirement percentage*) of all project- related construction and demolition waste.
- D. Non-Covered Projects (Demolition): Applicants for demolition projects within the City/County whose total costs are less than \$_____ (*insert threshold dollar amount*) are not required, but shall be encouraged, to divert at least _____ (*insert diversion requirement percentage*) of all project- related demolition waste.

- E. City/County-sponsored Projects (Construction and Renovation): All City/County-sponsored construction and renovation projects whose total costs are equal or greater than \$_____, (*insert threshold dollar amount*) shall be considered "Covered Projects" for the purposes of this Chapter, shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subject to the provisions of this Chapter. City/County sponsored projects whose total costs are less than \$_____ (*insert threshold dollar amount*) shall be considered Non-Covered projects and are not required, but shall be encouraged, to divert at least _____ (*insert diversion requirement percentage*) of all project-related construction and demolition waste.
- F. City/County-sponsored Projects (Demolition): All City/County-sponsored demolition projects whose total costs are equal or greater than \$_____, (*insert threshold dollar amount*) shall be considered "Covered Projects" for the purposes of this Chapter, shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. City/County sponsored projects whose total costs are less than \$_____ (*insert threshold dollar amount*) shall be considered Non-Covered projects and are not required, but shall be encouraged, to divert at least _____ (*insert diversion requirement percentage*) of all project-related demolition waste.
- G. Deconstruction/Recovery Interval for Covered Demolition Projects - Optional (*use in conjunction with covered demolition projects language B or F*): Every Covered demolition project shall be made available for deconstruction, salvage, and recovery prior to demolition. It shall be the responsibility of the applicant to recover the maximum feasible amount of designated recyclable and reusable materials prior to demolition. In order to provide sufficient time for deconstruction, salvage, and recovery, no demolition may take place until a period of _____ (*insert number of working days*) working days has elapsed from the date of issuance of the demolition permit. Recovered and salvaged designated recyclable and reusable material from every project shall qualify to be counted in meeting diversion requirements of Section _____ .03 (Diversion Requirement). Recovered or salvaged designated recyclables and reusable materials may be given away or sold on the premises, or may be removed to reuse facilities for storage or sale.
- H. Compliance with this Chapter shall be listed as a condition of approval on any construction, renovation and or demolition permit issued for a Covered Project.

Option Two (Threshold Based on square footage)

- A. Covered Projects (Construction and Renovation): All construction and renovation projects within the City/County that are _____ (*insert threshold size*) square feet or greater shall comply with Chapter _____, shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subject to the provisions of this Chapter. (*For ordinances including Fines or Penalties, insert the following text*) Failure to comply with any of the terms of Chapter _____ shall subject

the Project Applicant to the full range of enforcement mechanisms set forth in **Section _____**.10 (Fines/Penalties) below.

- B. Covered Projects (Demolition): All demolition projects within the City/County that are **_____** (*insert threshold size*) square feet or greater shall comply with **Chapter _____**, shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. (*For ordinances including Fines or Penalties, insert the following text*) Failure to comply with any of the terms of **Chapter _____** shall subject the Project Applicant to the full range of enforcement mechanisms set forth in **Section _____**.10 (Fines/Penalties) below.
- C. Non-Covered Projects (Construction and Renovation): Applicants for construction and renovation projects within the City/County whose projects are **_____** (*insert threshold size*) square feet or less are not required, but shall be encouraged, to divert at least **_____** (*insert diversion requirement percentage*) of all project-related construction and demolition waste.
- D. Non-Covered Projects (Demolition): Applicants for demolition projects within the City/County whose projects are **_____** (*insert threshold size*) square feet or less are not required, but shall be encouraged, to divert at least **_____** (*insert diversion requirement percentage*) of all project-related demolition waste.
- E. City/County-sponsored Projects (Construction and Renovation): All City/County-sponsored construction and renovation projects that are **_____** (*insert threshold size*) square feet or greater, shall be considered "Covered Projects" for the purposes of this Chapter, shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subjected to the provisions of this Chapter. City/County sponsored construction and renovation projects that are less than **_____** (*insert threshold size*) shall be considered Non-Covered projects and are not required, but shall be encouraged, to divert at least **_____** (*insert diversion requirement percentage*) of all project-related construction and demolition waste.
- F. City/County-sponsored Projects (Demolition): All City/County-sponsored demolition projects that are **_____** (*insert threshold size*) square feet or greater, shall be considered "Covered Projects" for the purposes of this Chapter, shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subjected to the provisions of this Chapter. City/County sponsored demolition projects that are less than **_____** (*insert threshold size*) shall be considered Non-Covered projects and are not required, but shall be encouraged, to divert at least **_____** (*insert diversion requirement percentage*) of all project-related construction and demolition waste.
- G. Deconstruction/Recovery Interval for Covered Demolition Projects - Optional (*use in conjunction with covered demolition projects language B or F*): Every Covered demolition project shall be made available for deconstruction, salvage, and recovery prior to demolition. It shall be the responsibility of the applicant to recover the maximum feasible amount of designated recyclable and reusable materials prior to

demolition. In order to provide sufficient time for deconstruction, salvage, and recovery, no demolition may take place until a period of [REDACTED] (*insert number of working days*) working days has elapsed from the date of issuance of the demolition permit. Recovered and salvaged designated recyclable and reusable material from every project shall qualify to be counted in meeting diversion requirements of Section [REDACTED].03 (Diversion Requirement). Recovered or salvaged designated recyclables and reusable materials may be given away or sold on the premises, or may be removed to reuse facilities for storage or sale.

- H. Compliance with this Chapter shall be listed as a condition of approval on any building or demolition permit issued for a Covered Project.

Option Three (Progressive Threshold): (Note to jurisdictions: In this approach, a jurisdiction can choose to establish a threshold in phases, by first targeting specific types and sizes of projects to be subject to the ordinance, in order to stimulate markets for the recovered materials and divert materials from projects that generate the most waste. Then, once markets have been established, the types or sizes of projects covered by the ordinance can be expanded. For example, a jurisdiction may choose to: First target only large projects to allow C&D markets time to develop, and then expand the types of projects subject to the ordinance to include smaller projects by gradually decreasing the minimum square footage threshold or dollar amount threshold for complying with the ordinance.)

- A. Covered Projects (Construction and Renovation): The [REDACTED] (*insert time frame*) the ordinance is in effect, all construction and renovation projects within the City/County that are [REDACTED] (*insert threshold amount here*) shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subject to the provisions of this Chapter. (*For ordinances including Fines or Penalties, insert the following text*) Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.
- B. Covered Projects (Construction and Renovation): The [REDACTED] (*insert time frame*) the ordinance is in effect, all construction and renovation projects within the City/County that are [REDACTED] (*insert threshold amount here*) shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subject to the provisions of this Chapter. (*For ordinances including Fines or Penalties, insert the following text*) Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.
- C. Covered Projects (Construction and Renovation): The [REDACTED] (*insert time frame*) the ordinance is in effect, all construction and renovation projects within the City/County that are [REDACTED] (*insert threshold amount here*) shall be considered Covered Projects,

shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subject to the provisions of this Chapter. *(For ordinances including Fines or Penalties, insert the following text)* Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.

- D. Covered Projects (Construction and Renovation): The [REDACTED] *(insert time frame)* the ordinance is in effect, all construction and renovation projects within the City/County that are [REDACTED] *(insert lowest final threshold amount here)* shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any construction or demolition activities, and shall be subject to the provisions of this Chapter. *(For ordinances including Fines or Penalties, insert the following text)* Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.
- E. Covered Projects (Demolition): The [REDACTED] *(insert time frame)* the ordinance is in effect, all demolition projects within the City/County that are [REDACTED] *(insert threshold amount here)* shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. *(For ordinances including Fines or Penalties, insert the following text)* Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.
- F. Covered Projects (Demolition): The [REDACTED] *(insert time frame)* the ordinance is in effect, all demolition projects within the City/County that are [REDACTED] *(insert threshold amount here)* shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. *(For ordinances including Fines or Penalties, insert the following text)* Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.
- G. Covered Projects (Demolition): The [REDACTED] *(insert time frame)* the ordinance is in effect, all demolition projects within the City/County that are [REDACTED] *(insert threshold amount here)* shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. *(For ordinances including Fines or Penalties, insert the following text)* Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.
- H. Covered Projects (Demolition): The [REDACTED] *(insert time frame)* the ordinance is in effect, all demolition projects within the City/County that are [REDACTED] *(insert lowest*

final threshold amount here) shall be considered Covered Projects, shall comply with Chapter [REDACTED], shall submit a Waste Management Plan prior to beginning any demolition activities, and shall be subject to the provisions of this Chapter. *(For ordinances including Fines or Penalties, insert the following text)* Failure to comply with any of the terms of this Chapter shall subject the Project Applicant to the full range of enforcement mechanisms set forth in Section [REDACTED].10 (Fines/Penalties), below.

- I. Deconstruction/Recovery Interval for Covered Demolition Projects - Optional *(use in conjunction with covered demolition projects language E, F, G & H)*: Every Covered demolition project shall be made available for deconstruction, salvage, and recovery prior to demolition. It shall be the responsibility of the applicant to recover the maximum feasible amount of designated recyclable and reusable materials prior to demolition. In order to provide sufficient time for deconstruction, salvage, and recovery, no demolition may take place until a period of [REDACTED] *(insert number of working days)* working days has elapsed from the date of issuance of the demolition permit. Recovered and salvaged designated recyclable and reusable material from every project shall qualify to be counted in meeting diversion requirements of Section [REDACTED].03 (Diversion Requirement). Recovered or salvaged designated recyclables and reusable materials may be given away or sold on the premises, or may be removed to reuse facilities for storage or sale.
- J. Compliance with this Chapter shall be listed as a condition of approval on any building or demolition permit issued for a Covered Project.

Exemptions:

A diversion deposit and a Waste Management Plan shall not be required for the following *(select from the following samples and/or include your own)*:

1. Work for which a building or demolition permit is not required.
2. New residential projects of less than \$ [REDACTED] *(insert dollar amount)* in value.
3. New non-residential construction projects of less than \$ [REDACTED] *(insert dollar amount)* in value.
4. Residential alterations of less than \$ [REDACTED] *(insert dollar amount)* in value.
5. Non-residential alterations of less than \$ [REDACTED] *(insert dollar amount)* in value.
6. Roofing projects that do not include tear-off of existing roof.
7. Work for which only a plumbing, only an electrical, or only a mechanical permit is required.
8. Seismic tie-down projects.
9. Projects where no structural building modifications are required.
10. Emergency demolition required to protect the public health and safety.

While not required, it shall be encouraged, that at least [REDACTED] *(insert diversion requirement percentage)* of all project-related construction and demolition waste from Exempt projects be diverted.

Section .06.: Waste Management Plan

Prior to starting the project, every applicant shall submit a properly completed "Waste Management Plan" (WMP) to the WMP Compliance Official, in a form as prescribed by that Official, as a portion of the building or demolition permit process. The completed WMP shall contain the following:

- A. The estimated volume or weight of project waste to be generated by material type;
- B. The maximum volume or weight of such materials that can feasibly be diverted via Reuse or Recycling by material type;
- C. The vendor(s) that the applicant proposes to use to haul the materials;
- D. Facility(s) the materials will be hauled to, and their expected diversion rates by material type;
- E. Estimated volume or weight of construction and demolition waste that will be disposed.

Because actual material weights are not available in this stage, estimates are used. In estimating the volume or weight of materials as identified in the WMP, the Applicant shall use the standardized conversion rates approved by the City/County of [REDACTED] (*insert jurisdiction name*) for this purpose. Approval of the WMP as complete and accurate shall be a condition precedent to the issuance of any building or demolition permit. If the applicant calculates the projected feasible diversion rate as described above, and finds 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 WMP shall be deemed incomplete.

- a. Approval: No building or demolition permit shall be issued for any Covered Project unless and until the WMP Compliance Official has approved the WMP. Approval shall not be required, however, where emergency demolition is required to protect public health or safety. The WMP Compliance Official shall only approve a WMP if he or she determines that all of the following conditions have been met:
 - i. The WMP provides all of the information set forth in this section.
 - ii. The WMP indicates that [REDACTED] (*insert required diversion goal*) percent of all C&D waste generated by the project shall be diverted (or new diversion goal set in accordance with the Applicant's approved Diversion Exemption request); and
 - iii. The Applicant has submitted an appropriate Deposit for the project (*If a deposit is required by the ordinance*).
- b. Non-Approval: If the WMP Compliance Official determines that the WMP is incomplete or fails to indicate that at least [REDACTED] (*insert required diversion goal*) percent (or new diversion goal set in accordance with the Applicant's approved Diversion Exemption request) of all C&D waste generated by the project will be diverted, he or she shall either:

- i. Return the WMP to the Applicant marked “Disapproved”, including a statement of reasons, and will notify the building department, which shall then immediately stop processing the building or demolition permit application, or
- ii. Return the WMP to the Applicant marked “Further Explanation Required.”

Section .07.: Deposit Required

(Note to jurisdictions: Some jurisdictions base the deposit amount on project type, e.g., new construction, demolition, or renovation. In deciding whether to utilize a deposit as part of your ordinance, be aware that general law cities and counties may have some limitations on their use of this enforcement mechanism. You should check with your city attorney’s office or county counsel’s office before making any decisions on how to proceed.)

As a condition precedent to the issuance of any permit for construction or demolition for a Covered Project, the Applicant shall post a deposit (cash, letter of credit, performance or surety bond, money order) in the amount of \$ [REDACTED] (*insert deposit amount*) for each estimated [REDACTED] (*insert applicable standard of measurement; e.g., ton of waste, square footage, project cost, fixed amount, etc.*) waste, but not less than [REDACTED] (*insert minimum deposit amount*). The deposit shall be returned, without interest, in total or pro-rated, upon proof of satisfaction by the WMP Compliance Official that no less than the required percentage of construction and demolition waste tonnage generated by the Covered project has been diverted from disposal and has been recycled or reused or stored for later reuse or recycling. If a lesser percentage of construction and demolition waste tonnage than required is diverted, a proportionate share of the deposit shall be returned. 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. The City/County may, by formal resolution, modify the amount of the required deposit.

Section .08.: On-site Practices

During the term of the Covered project, the Applicant shall recycle and reuse the required percentage of waste, and keep records of the tonnage or other measurements approved by the City/County that can be converted to tonnage amounts. The WMP Compliance Official will evaluate and may monitor each Covered project to determine the percentage of waste salvaged and recycled or reused from the Covered project. For Covered projects including both construction and demolition, diversion of materials shall be tracked and measured separately. To the maximum extent feasible, project waste shall be separated on-site if this practice increases diversion. For construction and/or demolition projects, on-site separation shall include salvageable materials (e.g., appliances, fixtures, plumbing, metals, etc.,) and dimensional lumber, wallboard, concrete and corrugated cardboard.

Section ____ .09. : Reporting

Within ____ (insert number of days) days following the completion of the demolition phase of a Covered project, and again within ____ (insert number of days) days following the completion of the construction phase of a Covered project, the applicant shall, as a condition precedent to final inspection and to issuance of any certificate of occupancy or final approval of project, submit documentation to the WMP Compliance Official that proves compliance with the requirements of Sections ____ .06 (Waste Management Plan) and ____ .03 (Diversion Requirement). The documentation shall consist of a final completed WMP showing actual waste tonnage data, supported by original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies, deconstruction contractors, and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether waste generated from the Covered project has been or are to be recycled, reused, salvaged or disposed. The applicant shall make reasonable efforts to ensure that all designated recyclable and reuse waste salvaged or disposed are measured and recorded using the most accurate method of measurement available.

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. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the City/County for this purpose.

If a Covered project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the WMP compliance official before issuance of a building permit for the construction phase of a Covered project. Alternatively, the applicant may submit a letter stating that no waste or recyclable materials were generated from the Covered project, in which case this statement shall be subject to verification by the WMP Compliance Official. Any deposit posted pursuant to Section ____ .07 (Deposit Required) shall be forfeited if the applicant does not meet the timely reporting requirements of this section

Section ____ .10.: Fines/Penalties

(Note to jurisdictions: Some jurisdictions have adopted C&D ordinances that do not include mechanisms for fines or penalties. Others have initially implemented an ordinance without the use of fines or penalties and then added them after a specified time period, or added them when it was determined that compliance with the ordinance could be more effective with fines or penalties used as an enforcement mechanism. General law cities and counties need to consult Government Code sections 25132 and 36901, as well as their respective legal counsel, prior to determining the dollar amounts to use in this section.)

Option One. Fines According to Degrees of Infraction

Violation of any provision of this Chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the

City/County shall be entitled to recover its attorney's fees and costs from an Applicant who is determined by a court of competent jurisdiction to have violated this Chapter.

- A. Violation of any provision of this Chapter shall constitute an infraction punishable by a fine not to exceed \$ [redacted] (*insert dollar amount*) for the first violation, a fine not to exceed \$ [redacted] (*insert dollar amount*) for the second violation within [redacted] (*insert time frame*), a not fine not to exceed \$ [redacted] for each additional violation within (*insert time frame*). There shall be a separate infraction for each day on which a violation occurs. Where the violation is the failure to achieve the diversion requirement applicable to the project and the construction and demolition materials from the project have already been disposed, the violation shall be deemed to have ceased after a period of [redacted] (*insert time frame*) days. The City/County shall recover costs and attorneys' fees incurred in connection with enforcement of this Chapter.
- B. Enforcement pursuant to this section shall be undertaken by the City/County through its [redacted] (*insert compliance official*) and the City/County Attorney.

Option Two- Misdemeanor Violation

Each violation of the provisions of this Chapter shall constitute a misdemeanor, and shall be punishable by imprisonment in the County jail for a time period not to exceed [redacted] (*insert time frame*) months, or by fine not exceeding [redacted], (*insert fine amount*) or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense.

Section .11.: Appeals

(Note to Jurisdictions: Cities/Counties may want to provide for appeals of any determinations made under this Article pursuant to their existing procedures and those of the department responsible for making WMP determinations. Determinations subject to appeal would include, but not necessarily be limited to: (1) the granting or denial of an exemption; (2) whether the applicant has acted in good faith; and (3) the amount of deposit to be released.)

Section [redacted].12.: Option to Revise

Beginning [redacted], (*insert date*) the City/County will evaluate the Recycling and Diversion of Construction and Demolition Waste Ordinance to determine its effectiveness in reducing the amount of C&D waste disposed. In this determination, the City/County will consider issues such as the amount of C&D waste disposed, volume of C&D activity, markets for C&D waste, and other barriers encountered by applicants. If the City/County determines the C&D disposed had the potential for diversion, then the City may amend these provisions and implement the necessary measures to divert more C&D waste

Section .13.: Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City/County Governing Body hereby declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective. To this end, the provisions of this Ordinance are declared severable.

1. This ordinance is hereby PASSED and ADOPTED by the Governing Body of the City/County of (insert jurisdiction name) at a regular meeting on the (insert day) day of (insert month) 200 (insert year).

Mayor/Chair, Board of Supervisors

City/County Clerk

.....

ORDINANCE CERTIFICATION

2. STATE OF CALIFORNIA
COUNTY OF (insert County name)
CITY OF (insert jurisdiction name)

ORDINANCE NO. (insert ordinance number)

.....

3. I, (insert clerk's name) City/County Clerk of the City/County of (insert jurisdiction name) do hereby certify that the foregoing ordinance was introduced at a regular meeting of the Governing Body held on the (insert day) day of 200 (insert year) and adopted thereafter at a regular meeting of the Governing Body held on the (insert day) day of 200 (insert year) by the following vote:

Ayes:
Noes:
Abstained:
Absent:

(insert signature)
City/County Clerk

Published: (insert date)

(insert date)