

**ORDINANCE NO. 2017 – 415**

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY  
AMENDING CHAPTER 8.09 [RECYCLING AND DIVERSION OF CONSTRUCTION  
AND DEMOLITION DEBRIS] OF TITLE 8 [HEALTH AND SAFETY] OF THE  
PORTOLA VALLEY MUNICIPAL CODE**

**WHEREAS**, the Town Council of the Town of Portola Valley adopted Ordinance No. 2000-332 regarding Diversion of Construction and Demolition Debris on October 11, 2000; and

**WHEREAS**, the Town Council adopted Ordinance No. 2001-335 on July 25, 2001 amending Ordinance 2000-332 in order to address materials that cannot be recycled or reused and the disposal of large quantities of dirt; and

**WHEREAS**, the Town Council adopted Ordinance No. 2002-340 on February 27, 2002 amending Ordinance 2000-332 in order to further clarify several sections; and

**WHEREAS**, the new California Green Building Standards Code (CALGreen) has added new provisions to the Code effective January 1, 2017 that increase the required diversion rate to sixty-five percent (65%); and

**WHEREAS**, Assembly Bill 341 (AB 341) requires a statewide goal of no less than seventy-five percent (75%) of solid waste generated by 2020 to be source reduced, recycled or composted; and

**WHEREAS**, the Town Council now seeks to amend Chapter 8.09 to reflect changes to the 2016 California Building Standards Code and add additional provisions to continue to meet AB 341 objectives and that would lead to enhanced recycling and reuse of construction and demolition debris.

**NOW, THEREFORE**, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. Amendment of Code. Section 8.09.010 [Findings and purpose] of Chapter 8.09 [Recycling and Diversion of Construction and Demolition Debris] of Title 8 [Health and Safety] of the Portola Valley Municipal Code is hereby amended to read as follows:

**8.09.010 Findings and purpose**

A. The Town Council finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert fifty percent (50%) of solid waste from landfill by December 31, 2000, through source reduction, recycling, and composting activities.

B. The Town Council finds that the California Green Building Standards Code (CALGreen) includes new provisions effective January 1, 2017 that increase the required diversion rate to sixty-five percent (65%).

C. The Town Council finds that with Assembly Bill 341 (AB 341) the State of California made a legislative declaration in regard to AB 939 that it is the policy goal of the state that not less than seventy-five percent (75%) of solid waste generated be source reduced, recycled, or composted by the year 2020.

D. The Town Council finds that every city and county in California could face fines up to ten thousand dollars (\$10,000) a day for not meeting the above-mandated goal.

E. The Town Council finds and determines that the Town is committed to protecting the public health, safety, welfare and environment.

F. In order to meet these goals, it is necessary that the Town promote the reduction of solid waste and reduce the stream of solid waste going to landfills.

G. Debris from demolition and construction of buildings represents a significant portion of the volume presently going to landfill(s) from Portola Valley and much of said debris is particularly suitable for recycling.

H. The Town Council finds that reuse and recycling of certain portions of construction and demolition debris is essential to further the Town's efforts to reduce solid waste, to comply with AB 939 mandates and the 2016 California Green Building Standards Code, and to work toward AB 341 mandates.

I. The Town Council finds that, except in unusual circumstances, it is feasible to divert an average of at least seventy-five percent (75%) of all construction and demolition debris from construction, demolition and renovation covered projects.

J. The Town Council recognizes that requiring construction and demolition debris to be recycled and reused may in some respects add modestly to the cost of demolition and in other respects may make possible some cost recovery and cost reduction.

K. It is necessary in order to protect the public's health, safety and welfare, that the following regulations be adopted.

2. Amendment of Code. Section 8.09.020 [Definitions] of Chapter 8.09 [Recycling and Diversion of Construction and Demolition Debris] of Title 8 [Health and Safety] of the Portola Valley Municipal Code is hereby amended to read as follows:

**8.09.020 Definitions**

For purposes of this chapter, the following terms are defined as follows:

A. "Alternative daily cover (ADC)" means materials other than solid waste that have been approved by the California Integrated Waste Management Board for use as a temporary overlay on an exposed landfill face.

B. "Applicant" means any individual, firm, limited liability company, association, partnership, government agency, industry, public or private corporation, or any other person or entity whatsoever who applies to the town for a permit to undertake any construction, demolition, or renovation for a covered project within the town.

C. "Contractor" means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, and who performs (whether as contractor, subcontractor or owner-builder) any construction, demolition, and/or renovation of a covered project in the Town of Portola Valley.

D. "Construction" means all building, landscaping, remodeling, addition, removal or demolition involving the use or disposal of designated recyclable and reusable materials as defined in subsection (K) below.

E. "Construction and demolition debris" means:

1. Discarded material generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.

2. Clean cardboard, paper, plastic, wood, and metal scraps from any construction project.

3. De minimus amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the industry.

F. "Conversion rate" means the most current rates set forth in the standardized "Weight Conversion Charts" developed, approved and disseminated by the California Integrated Waste Management Board for use in estimating the volume or weight of materials identified in a waste management plan.

G. "Covered project" means any permitted construction or demolition projects within the town, including re-roofing with the following additional provisions:

1. Residential addition, remodel and alteration requirements shall apply only to and/or within the specific area of the addition or alteration.

2. Nonresidential additions and alterations requirements shall apply to building additions of 1,000 square feet or greater, and/or building alterations with a permit valuation of \$200,000 or above. The requirements shall apply only to the portions of the building being added or within the scope of the permitted work.

H. "Deconstruction" means the soft demolition of any facility, structure, or building through a planned dismantling and salvaging of reusable materials and parts.

I. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior and/or the removal of landscaping materials, including green waste.

J. "Deposit" means a cash deposit in the amount of fifty dollars (\$50) for each estimated ton of construction and/or demolition debris from a covered demolition or renovation project, and one-half percent of total project valuation for new construction projects, but not less than one thousand dollars (\$1,000).

K. "Designated recyclable and reusable materials" means that portion of construction and demolition debris that includes the following:

1. Masonry building materials including all products generally used in construction including, but not limited to, asphalt, concrete, rock, stone and brick.

2. Wood materials including, but not limited to, any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted.

3. Vegetative materials including, including but not limited to, trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use.

4. Earth materials, including, but not limited to, dirt and rocks from land clearing activities in preparation for construction.

5. Metals including all metal scrap including, but not limited to, pipes, siding, window frames, door frames and fences.

6. Roofing materials including, but not limited to, wood shingles as well as asphalt, tile, stone and slate-based roofing material.

7. Salvageable materials and structures including, but not limited to, wall board, doors, cabinets, shelves, furniture, plumbing and electrical fixtures, windows, fixtures, toilets, sinks, bath tubs and appliances.

L. "Divert" means to use material for any purpose other than disposal in a landfill or transformation facility.

M. "Diversion requirement" means the diversion of at least seventy-five percent (75%) of the total construction and demolition debris generated by a covered project via reuse or recycling. ADC is not included as a bonafide means of diversion.

N. "Project" means any activity which requires an application for a building or demolition permit or any similar permit from the Town.

O. "Recovery" means the removal and reclamation of those materials from a project that may have value if reused or recycled.

P. "Recycling" means 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.

Q. "Renovation" means any change, addition, or modification in an existing structure.

R. "Reuse" means further or repeated use of construction or demolition debris.

S. "Salvage" means the controlled removal of designated recyclable and reusable materials from construction and demolition debris from a covered project, for the purpose of recycling, reuse or storage for later recycling or reuse.

T. "Waste Management Plan (WMP)" means a completed waste management plan form, approved by the Town for the purpose of compliance with this chapter submitted by the applicant for any covered project.

U. "WMP compliance official" means the Town Manager or designated staff person(s) authorized and responsible for implementing this chapter.

V. "Waste tonnage" means the actual weight of either construction and demolition debris, or designated recyclable and reusable materials as used in this chapter.

3. Amendment of Code. Section 8.09.040 [Diversion requirements] of Chapter 8.09 [Recycling and Diversion of Construction and Demolition Debris] of Title 8 [Health and Safety] of the Portola Valley Municipal Code is hereby amended to read as follows:

**8.09.040 Diversion requirements**

It is required that at least seventy-five percent (75%) of the waste tonnage of construction and demolition debris generated from every covered project shall be diverted from landfill by using recycling, salvage for reuse and diversion programs:

Notwithstanding, should Town staff determine that more than twenty-five percent (25%) of project debris primarily consists of non-recyclable material and that the applicant has made a good faith attempt to meet, but cannot meet the seventy-five percent (75%)

diversion requirement, Town staff may grant an exception from the diversion requirements for the non-recyclable material only as long as all of the recyclable material is one hundred percent (100%) diverted.

In those cases where Town staff has determined that the applicant has made a good faith effort to recycle or re use the material and no recycling or reuse market may be found for that certain material, then alternative daily cover (ADC) may be considered as bonafide diversion for the materials for which there is no recycling or reuse market.

The Town believes in the highest and best use of materials that are recycled. Therefore, ADC alone shall not count towards reaching the required diversion percentage.

4. Amendment of Code. Section 8.09.050 [Information required before issuance of demolition and/or building permit] of Chapter 8.09 [Recycling and Diversion of Construction and Demolition Debris] of Title 8 [Health and Safety] of the Portola Valley Municipal Code is hereby amended to read as follows:

**8.09.050 Information required before issuance of demolition and/or building permit**

Every applicant shall submit a properly completed Waste Management Plan, in a form as prescribed by the WMP compliance official to the WMP compliance official, as a portion of the building or demolition permit process and shall be in conformance with Items 1 through 8, below. The completed WMP shall be updated as necessary and shall be available during construction for examination by the enforcing agency indicate all of the following:

- (1) Identify the construction and demolition waste materials to be diverted from disposal by efficient usage, recycling, reuse on the project or salvage for future reuse or sale.
- (2) Calculate the estimated volume or weight of construction and demolition waste materials, by material type, to be generated;
- (3) Identify the maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;
- (4) Identify the estimated volume or weight of construction and demolition debris that will be land filled.
- (5) Specify if construction and demolition waste materials will be sorted on-site (source-separated) or bulk mixed (single stream);
- (6) Identify the vendor that the applicant proposes to use to haul the materials, the facility to which the materials will be hauled, and the facility's requirement for diversion of the materials; and
- (7) Identify construction methods employed to reduce the amount of construction and demolition waste generated.
- (8) Calculate the total diversion rate of all materials at the end of the project.

In estimating the volume or weight of materials identified in the WMP, the applicant shall use the standardized conversion rates approved by the Town for this purpose. Approval of the form as complete and accurate shall be a condition precedent to issuance of any building or demolition permit. If the maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling, as estimated pursuant to Item 3 above, is less than the required diversion requirements, applicant must submit information that supports the lower projected diversion rate, or the WMP shall be considered to be incomplete.

5. Amendment of Code. Section 8.09.070 [Administrative Fee] of Chapter 8.09 [Recycling and Diversion of Construction and Demolition Debris] of Title 8 [Health and Safety] of the Portola Valley Municipal Code is hereby amended to read as follows:

**8.09.070 Administrative fee**

As a condition precedent to issuance of any permit for construction or demolition for a covered project, the applicant shall pay to the Town a cash fee sufficient to compensate the Town for all expenses incurred in administering the permit. The amount of the fee shall be determined in accordance with the then current fee schedule adopted by resolution of the Town Council.

6. Environmental Review. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15308 because it is an action taken by a regulatory agency for the protection of the environment.
7. Severability. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.
8. Effective Date; Posting. This Ordinance shall become effective thirty (30) days after the date of its adoption and shall be posted within the Town of Portola Valley in three (3) public places.

INTRODUCED: January 11, 2017  
PASSED: January 25, 2017  
AYES: Councilmember Wengert, Aalfs, Derwin and Mayor Hughes  
NOES: None  
ABSTENTIONS: None  
ABSENT: Vice Mayor Richards


ATTEST:

  
Town Clerk

By:

  
Mayor

APPROVED AS TO FORM:

  
Town Attorney