

ORDINANCE NO. 13-12

AN ORDINANCE ADDING CHAPTER 6.3.1, OF TITLE 6, OF THE CLOVIS MUNICIPAL CODE PERTAINING TO RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS

THE CITY COUNCIL OF THE CITY OF CLOVIS DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6.3.1, of Title 6, of the Clovis Municipal Code, is hereby added to read as follows:

CHAPTER 6.3.1

RECYCLING AND DIVERSION OF
CONSTRUCTION AND DEMOLITION DEBRIS

Section 6.3.1.01 Findings.

(a) Pursuant to the California Waste Management Act of 1989 (Public Resources Code §§ 40000 et seq.), the City of Clovis is required to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals.

(b) Debris from construction, demolition, and renovation of buildings represents a particularly suitable portion of the volume of waste presently coming from the City of Clovis for recycling and reuse.

Section 6.3.1.02 Definitions.

(a) 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 of a building within the City.

(b) Approved Process Site: A facility identified in the Waste Management Plan and permitted by the California Department of Resources Recycling and Recovery for processing construction and demolition debris.

(c) Approved Recycling Facility: A facility identified in the Waste Management Plan and listed in the California Department of Resources Recycling and Recovery C&D Recyclers Database

(d) Authorized C&D Debris Collector or Franchised Hauler: The entity(ies) authorized by the City through a non-exclusive franchise to collect construction and demolition debris in the City.

(e) Compliance Official: The designated staff person(s) authorized and responsible for implementing this chapter and approving Waste Management Plans.

(f) Construction and Demolition Debris or C&D Debris: the discarded materials from the construction, renovation, or demolition of a building or structure, generally considered to be not water soluble and non-hazardous in nature, including but not limited to cardboard, plastic, wood, steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, metal scraps and lumber. C&D Debris also includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.

(g) Covered Project: Any project which meets the thresholds set forth in Section 6.3.1.05.

(h) Diversion: To use material for any purpose other than disposal in a landfill or transformation facility. Methods to divert materials from landfills include reuse, salvage, and recycling.

(i) 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.

(j) Reuse: The use, in the same or similar form as it was produced, of a material that might otherwise be discarded.

(k) Salvage: The controlled removal of construction or demolition debris from a building construction, renovation, or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

(l) Waste Management Plan or WMP: A completed waste management plan approved by the City for the purpose of compliance with this chapter, submitted by the Applicant for any Covered Project.

Section 6.3.1.03 Diversion Requirement.

At least fifty percent (50%) of waste tonnage from a Covered Project shall be diverted from disposal.

Section 6.3.1.04 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 they submit the Waste Management Plan.

(b) The 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. Based on the information supplied by the Applicant the Compliance Official shall determine whether it is feasible for the Applicant to meet the Diversion Requirement.

(c) If the Compliance Official determines that it is not feasible for the Applicant to meet the Diversion Requirement, the Compliance Official 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. The Applicant shall then have thirty (30) days to resubmit another WMP, which is in compliance with the revised diversion requirement.

Section 6.3.1.05 Thresholds for Covered Projects.

(a) Existing Buildings: The construction or renovation of existing buildings within the City, the total costs of which are projected to be equal or greater than \$50,000, shall obtain approval of a Waste Management Plan prior to beginning any construction activities.

(b) Demolition: All demolition projects within the City, the total costs of which are projected to be equal or greater than \$5,000, shall obtain approval of a Waste Management Plan prior to beginning any demolition activities.

(c) New Buildings: All new residential and commercial construction within the City shall submit and obtain approval for a Waste Management Plan prior to beginning any construction activities.

Section 6.3.1.06 Waste Management Plan.

(a) Prior to starting a Covered Project, an applicant, except when using an Authorized C&D Debris Collector, shall submit a complete Waste Management Plan to the Compliance Official. The completed WMP shall contain the following:

- (1) Estimated volume or weight of waste to be generated by material type;
- (2) Determination if the materials will be sorted on-site or mixed;
- (3) Anticipated volume or weight of material that can be diverted via reuse, recycling or salvage by material type;
- (4) The names of the Approved Process Site(s) and/or Recycling Facility(ies) the materials will be hauled to;

- (5) Identification of the persons and/or entities that will be transporting the materials and a description of the method used to transport the materials.
 - (6) Estimated volume or weight of construction and demolition debris that will be disposed at a landfill.
- (b) Approval of the WMP shall be required prior to the issuance of any building or demolition permit.
 - (c) Approval of a WMP shall not be required where emergency demolition is required to protect public health or safety.
 - (d) The Compliance Official shall only approve a WMP if it is determined that all of the following conditions have been met:
 - (1) The WMP provides all of the information set forth in this section.
 - (2) The WMP indicates that 50% percent of all construction and demolition debris generated by the project shall be diverted or the revised diversion goal as set in accordance with the Applicant's approved Diversion Exemption request.

Section 6.3.1.07 Reporting.

- a. Except when using an Authorized C&D Debris Collector, following the completion 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 a project, submit documentation to the Compliance Official that evidences compliance with the requirements of the Waste Management Plan. The documentation shall consist of a final completed WMP showing:
 - (1) Actual volume or weight of waste generated by material type;
 - (2) The volume or weight of material that was diverted via reuse, recycling or salvage by material type;
 - (3) The names of the Approved Process Site(s) and/or Recycling Facility(ies) the materials were hauled to;
 - (4) Actual volume or weight of construction and demolition debris that was disposed at a landfill.
- b. To the extent practical C&D Debris shall be weighed. When weighing is not practical due to size or other considerations, a volumetric measurement can be used at the discretion of the Compliance Official.

Section 6.3.1.08 Collection by Authorized C&D Debris Collector In Lieu of WMP and Reporting.

An Applicant that chooses to utilize an Authorized C&D Debris Collector to haul, process and dispose of all C&D debris from a project shall be exempt from the Waste Management Plan requirements of Section 6.3.1.06 and the Reporting requirements of Section 6.3.1.07. In such cases, the Applicant must:

- (a) Submit to the Compliance Officer, in lieu of a WMP required by Section 6.3.1.06 and prior to the issuance of a building or demolition permit, a statement identifying the Franchised Hauler that will handling the C&D debris from the project. The Applicant shall include a copy of the contract evidencing that the Franchised Hauler has been hired to remove the C&D debris.
- (b) Submit to the Compliance Officer, in lieu of the Reporting required by Section 6.3.1.07 and as a condition precedent to final inspection and to issuance of any certificate of occupancy or final approval of a project, certification that all C&D debris from the project was handled by the Franchised Hauler. Said certification shall clearly indicate total tons received by the Franchise Hauler.

Section 6.3.1.09 Non-Exclusive C&D Debris Collection Franchise.

- (a) Requirement. Effective August 1, 2013, no person shall provide the collection of C&D Debris in the City unless they first receive a franchise to engage in such activity from the City. The City shall retain the right to provide C&D Debris collection services for materials collected from City facilities and parks, and from special events and venues sponsored by the City, provided that such collection shall be performed by the City's municipal collection operation, City crews, or the City's contracted hauler(s).
- (b) Non-Exclusive Rights. C&D Debris collection services in the City are considered non-exclusive, and such service may be provided by any person granted a non-exclusive C&D Debris collection franchise with the City.
- (c) Eligibility. A nonexclusive franchise may be granted by the City Council to any person, business, or entity which satisfies the requirements of this Section. The Council may impose a limit on the number of franchisees when in the opinion of the Council it is in the public interest to restrict the number of franchisees.
- (d) Application for Non-Exclusive Franchise. All applications to provide C&D Debris collection service shall be filed with the Director of Public Utilities and contain the following information, plus such other information as the Public Utilities Director may deem necessary:
 - (1) Applicant Information. Provide a cover letter that includes the following applicant information. The cover letter shall be signed by an officer or agent of the company

submitting the application, who is duly authorized to bind the company to the application.

- (i) Company name.
 - (ii) Form of business organization (sole proprietorship, partnerships (includes limited, general, and limited liability partnerships), corporation (includes limited liability companies), etc.) .
 - (iii) Contact name, title, phone, fax, and e-mail address.
 - (iv) Business mailing address.
 - (v) Names of Persons Doing Business under Fictitious Name (if applicable).
 - (vi) Names of Members of Partnership, Ventures, and LLCs (if applicable).
 - (vii) Names of Officers of Corporation or Association (if applicable).
- (2) Qualifications Information.
- (i) Description of Applicant. A detailed statement of the corporate or other business entity organization of the applicant.
 - (ii) Municipal References.
 - (iii) Customer References.
 - (iv) Proof of Insurance.
 - (v) History of Litigation, Regulatory Actions, and Liquidated Damages.
 - (vi) Criminal History.
 - (vii) City of Clovis Business License.
- (3) Operations Information.
- (i) Diversion Plan - A plan describing how applicant will divert at least 50% of the C&D debris collected
 - (ii) Estimated Number of Vehicles.
 - (iii) Estimated Number of Containers.
 - (iv) Processing and Disposal Facilities.

(v) Hazardous Waste Procedures.

(vi) Location and Hours of Customer Service Center.

(vii) Billing Procedures.

(4) Signed Non-Exclusive Franchise Agreement. Two executed copies of the City's standard non-exclusive franchise agreement shall be attached to the application.

(5) Application Fee. A non-refundable application fee in an amount as set forth in the City's Master Administrative Fee Schedule shall accompany the application to pay for the costs of studying, investigating, and otherwise processing the application.

(e) Application Submittal. The Director of Public Utilities shall accept new applications annually from March 1 through April 30.

(f) Application Review. The Director of Public Utilities shall evaluate any and all applications and provide a written recommendation to the City Manager as to the qualifications and capabilities of the applicant. In order to receive a recommendation for approval, the Applicant must demonstrate, by experience, reputation, and capacity, that it is qualified to provide the C&D Debris collection services, that it has the necessary equipment to transport such material to appropriate places for recycling, processing, and/or disposal, and that it will meet the Diversion Requirements of this chapter.

(g) Waive Irregularities. The City Council may, in its discretion, waive any minor irregularities contained in an application.

(h) Franchise Procedure. The procedures set forth in this article shall govern the procedure for granting or denying the non-exclusive C&D debris collection franchises. The Council may adopt by resolution such additional procedures not inconsistent with this chapter.

(i) Non-Exclusive Franchise Agreements, Required Terms. The Director of Public Utilities shall prepare a standard form of non-exclusive C&D debris collection franchise agreement. Each franchise agreement shall include the following terms:

(1) Term. The duration of the franchise agreement shall be a term of two (2) years, unless terminated sooner.

(3) Scope of Agreement. The franchise agreement shall identify the scope of the services to be provided by the grantee, the processing and disposal locations to be used by grantee, and other similar matters relating to the collection, transportation, recycling, processing, and disposal services to be provided by the grantee.

(4) Public Education. The franchise agreement shall provide for the grantee to prepare and distributed information to its customers describing how to prepare material covered by the franchise for collection, materials that are excluded from collection, and related matters.

(5) Performance Standards. The franchise agreement shall specify the hours of collection, the manner in which containers will be serviced, grantee responsibility for vehicle appearance, leaks, and related matters, and hazardous waste inspection and handling.

(6) Record Keeping and Reporting. The franchise agreement shall require the grantee to maintain accurate accounting, statistical, and other records relating to services provided under the franchise, report submittal requirements, and related matters.

(7) Franchise Fees and Administrative Charges. The franchise agreement shall state the amount of the franchise fee and other charges to be paid by the grantee as consideration for the contractual right to provide the services covered by the franchise agreement in the City. The Franchise Fee shall be one thousand dollars (\$1000.00) for each two year franchise or portion thereof.

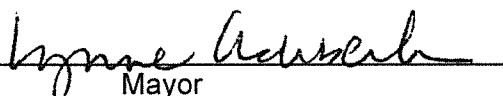
(8) Indemnity and Insurance Requirements. The franchise agreement shall contain appropriate indemnity and defense provisions, and insurance requirements.

(9) Default. The franchise agreement shall identify the events that constitute a default thereunder, as well as the remedies available to the non-defaulting party.

(j) Each franchise agreement shall be submitted to the City Council for approval at the same time a recommendation for approval of a franchisee is made.

SECTION 2. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

APPROVED: April 15, 2013



Mayor



City Clerk

The foregoing ordinance was introduced and read at a regular meeting of the City Council held on April 15, 2013, and was adopted at a regular meeting of said Council held on May 6, 2013, by the following vote, to wit:

AYES: Councilmembers Armstrong, Flores, Magsig, Whalen, Mayor Ashbeck

NOES: None

ABSENT: None

ABSTAIN: None

DATED: May 6, 2013



City Clerk

