

ORDINANCE NO. 1645
AN ORDINANCE OF THE CITY OF BURLINGAME
ADDING A NEW CHAPTER 8.17 TO THE
BURLINGAME MUNICIPAL CODE RELATING TO RECYCLING AND DIVERSION
OF CONSTRUCTION AND DEMOLITION DEBRIS

The City Council of the City of Burlingame, California, does hereby ordain as follows:

Section 1. The City Council of the City of Burlingame hereby finds and determines that the City is committed to protecting the public health, safety, welfare and environment; that in order to meet these goals, it is necessary that the City promote the reduction of solid waste and reduce the stream of solid waste going to landfills; that under California law as embodied in the California Waste Management Act (California Public Resources Code Sections 40000 et seq.), Burlingame is required to prepare, adopt and implement source reduction and recycling elements to reach reduction goals, and is required to make substantial reductions in the volume of waste materials going to landfill, or pay penalties; that debris from demolition and construction of buildings and tenant upgrades represents a significant portion of the volume presently coming from Burlingame, and that much of this debris is particularly suitable for recycling; that Burlingame' s commitment to the reduction of waste and to compliance with State law requires the establishment of programs for recycling and salvaging construction and demolition materials; the City Council recognizes that requiring demolition and construction 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; and that it is necessary in order to protect the public health, safety and welfare that this ordinance is adopted.

Section 2. A new Chapter 8.17 is added to the Municipal Code to read as follows:

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Chapter 8.17
RECYCLING AND DIVERSION OF DEBRIS FROM
CONSTRUCTION AND DEMOLITION

8.17.010 **Definitions**
8.17.020 **Deconstruction and Salvage and Recovery**
8.17.030 **Diversion Requirements**
8.17.040 **Information Required Before Issuance of Permit**
8.17.050 **Deposit Required**
8.17.060 **Administrative Fee**
8.17.070 **On Site Practices**
8.17.080 **Reporting**
8.17.090 **Penalties**

8.17.010 **Definitions.**

For purposes of this chapter, the following definitions apply:

(a) "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, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, demolition, remodeling, or landscaping service relating to buildings or accessory structures in the city.

(b) "Demolition" means, for the purposes of the recycling and diversion requirements in this chapter, the intentional removal of fifty percent (50%) or more of an existing structure.

(c) "Demolition and construction debris" means and includes:

(1) Discarded materials 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 destruction 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

1 and/or landscape project;

2 (3) Non-construction and demolition debris wood scraps.

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

6 (5) Mixing of construction and demolition debris with other types of solid waste will
7 cause it to be classified as other than construction and demolition debris.

8 (d) "Designated recyclable and reusable materials" means and includes:

1.9 (1) Masonry building materials including all products generally used in construction
10 including, but not limited to asphalt, concrete, rock, stone and brick;

11 (2) Wood materials including any and all dimensional lumber, fencing or construction
12 wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted
13 with lead paint.

14 (3) Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any
15 other type of plants that are cleared from a site for construction or other use.

16 (4) Metals including all metal scrap such as, but not limited to, pipes, siding, window
17 frames, door frames and fences.

18 (5) Roofing materials including wood shingles as well as asphalt, stone and slate based
19 roofing material.

20 (6) Salvageable materials including all salvageable materials and structures including, but
21 not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.

22 (7) Any other materials that the chief building official determines can be diverted due to
23 the identification of a recycling facility, reuse facility, or market accessible from the city.

24 (e) "New construction" means the construction of a completely new structure or the
25 construction of an addition to an existing structure that exceeds fifty percent (50%) of the value
26 of the existing structure as determined by the building official.

27 (f) "Structure" means anything constructed or erected, except fences, the use of which

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1 requires permanent location on the ground or attached to something having a permanent location
2 on the ground and that contains 150 square feet or more of floor area.

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5 **8.17.020 Deconstruction and Salvage and Recovery.**

6 Every structure planned for demolition shall be made available for deconstruction,
7 salvage, and recovery prior to demolition. No person shall begin such a demolition until a
8 period of five (5) working days has elapsed from the date of issuance of the demolition permit,
9 in order to facilitate that pre-demolition deconstruction, salvage and recovery. The owner, the
10 general contractor and all subcontractors shall recover the maximum feasible amount of
11 salvageable designated recyclable and reusable materials prior to demolition. In the event that it
12 is determined that no materials can be salvaged for reuse from a particular project, written
13 documentation shall be provided to the City as to the reasons why salvaging cannot take place
14 at least three (3) working days before demolition begins. Recovered and salvaged designated
15 recyclable and reusable materials from the deconstruction phase shall qualify to be counted in
16 meeting the diversion requirements of this chapter. Recovered or salvaged materials may be
17 given or sold on or from the premises at which they were recovered or salvaged, or may be
18 removed to reuse warehouse facilities for storage or sale. Title to reusable or recyclable
19 materials forwarded to the operator of a recycling facility, landfill, or other disposal facility will
20 transfer to the service provider upon departure of the materials from the site.

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22 **8.17.030 Diversion Requirements.**

23 The minimum percentages of waste tonnage of demolition and construction debris
24 generated from every demolition, remodeling and construction project, as defined below, shall be
25 diverted from going to landfills by using recycling, reuse and diversion programs as follows:

26 (a) From demolition:

27 For all residential (single-family and multi-family) and commercial demolition projects in

1 the city: At least sixty percent (60%) of all generated C&D tonnage from the project shall be
2 diverted. When total tonnage generated from a project includes soil, concrete and/or asphalt,
3 the total diversion rate shall remain at sixty percent (60%) but at least twenty-five (25%) of the
4 C&D tonnage that excludes soil, concrete, and asphalt shall be diverted. For example, if total
5 tonnage generated is one hundred (100) tons, the total diverted tonnage shall be at least sixty
6 (60) tons. Of this amount, the total tonnage diverted through materials excluding soil, concrete
7 and asphalt, shall be at least twenty-five (25) tons and the remainder (35 tons or more) can be
8 obtained through diversion of soil, concrete and asphalt.

9 (b) From new construction:

10 All residential (single-family and multi-family) and all commercial new construction
11 projects shall be covered by the same diversion requirements as for demolition: Sixty percent
12 (60%) of total waste tonnage generated from the project shall be diverted. When total tonnage
13 generated from a project includes soil, concrete and/or asphalt, the total diversion rate shall
14 remain at sixty percent (60%) but at least twenty-five (25%) of the waste tonnage that excludes
15 soil, concrete, and asphalt shall be diverted. For example, if total tonnage generated is one
16 hundred (100) tons, the total diverted tonnage shall be at least sixty (60) tons. Of this amount,
17 the total tonnage diverted through materials excluding soil, concrete and asphalt, shall be at least
18 twenty-five (25) tons and the remainder (35 tons or more) can be obtained through diversion of
19 soil, concrete and asphalt.

20 (c) Separate calculations and reports will be required for the demolition portion and for
21 the construction portion of projects involving both demolition and construction.

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23 **8.17.040 Information Required Before Issuance of Permit.**

24 (a) Every applicant shall submit a properly completed "Recycling and Waste Reduction
25 Form," on a form as prescribed by the city as an integral part of the building or demolition
26 permit application process. The applicant's submission shall include an accurate estimate of
27 the tonnage or other specified units of construction and demolition debris to be generated from

1 construction and demolition on the site. Approval of the form as complete and accurate shall be
2 a condition precedent to issuance of any building or demolition permit.

3 (b) The building official will review the Recycling and Waste Reduction Form for the
4 purpose of confirming the accuracy of the estimated waste generation and gathering data on the
5 amount of waste generated for the project in the city.

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7 **8.17.050 Deposit Required.**

8 As a condition precedent to issuance of any permit for a building or a demolition permit
9 that is subject to section 8.17.030, the applicant shall post a cash deposit, surety bond, or
10 irrevocable letter of credit in the amount of fifty dollars (\$50.00) for each estimated ton of
11 generated construction or demolition. The deposit or cash bond shall be returned, without
12 interest, in total or in proportion, upon proof to the satisfaction of the building official, that no
13 less than the required percentages or proven proportion of those percentages of the tons of
14 debris generated by the demolition or construction project have been diverted from landfills and
15 have been recycled or reused. If a lesser percentage of tons or cubic yards than required is
16 diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited
17 entirely or to the extent that there is a failure to comply with the requirements of this chapter
18 for timely reporting or compliance with the percentage diversion.

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20 **8.17.060 Administrative fee.**

21 As a condition precedent to issuance of any permit for a building or a demolition permit
22 that involves the production of solid waste destined to be delivered to a landfill, the applicant
23 shall pay to the city a fee as established by resolution to compensate the city for all expenses
24 incurred in administering the permit.

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26 **8.17.070 On-site practices.**

27 During the term of the demolition or construction project, the contractor shall recycle or
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1 divert the required percentages of materials, and keep records of diversions in tonnage or in
2 other measurements approved by the city that can be converted to tonnage. The building
3 official will evaluate and monitor contractor reports from each project to gauge the percentage of
4 materials recycled, salvaged, and disposed from the project. To the maximum extent feasible,
5 on-site separation of scrap wood and clean green waste in a designated debris box or boxes shall
6 be arranged, in order to permit chipping and mulching for soil enhancement or land cover
7 purposes. In order to protect chipping and grinding machinery and personnel, metal and other
8 materials which cannot be chipped or ground shall not be placed in such boxes. On-site
9 separation for recycling and salvaging of other materials shall be undertaken to the extent
10 feasible.

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12 **8.17.080 Reporting.**

13 (a) No later than sixty (60) days following the completion of a demolition project or
14 construction project, the contractor shall, as a condition of final inspection and for issuance of
15 any certificate of occupancy, submit documentation to the city that proves compliance with the
16 requirements of section 8.17.030. The documentation shall consist of a final completed
17 "Recycling and Waste Reduction Form" showing the tonnage of materials recycled and diverted,
18 supported by originals or certified photocopies of receipts and weight tags or other records of
19 measurement from recycling companies, deconstruction contractors, and landfill and disposal
20 companies. Receipts and weight tags will be used to verify whether materials generated from
21 the site have been or are to be recycled, reused, salvaged or otherwise disposed of. If mixed
22 debris is taken to a facility that provides both mixed C&D processing and disposal services,
23 documentation shall be provided to show that the delivered materials were processed for
24 recycling and also indicate the average diversion rate achieved by the facility from mixed load
25 processing.

26 (b) If a project involves both demolition and construction, the report and
27 documentation for the demolition portion of the project shall be submitted no later than sixty
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1 (60) days following the completion of the demolition portion of the project, and must be
2 approved by the city before issuance of a building permit for the construction portion of the
3 project. The permittee shall then submit the report and documentation for the construction
4 portion of the project no later than sixty (60) days following completion of the construction
5 portion as specified in subsection (a) above.

6 (c) As an alternative, a permittee may submit a declaration stating that no waste or
7 recyclable materials were generated from the permittee's project or a particular portion of a
8 project.

9 (d) Any deposit posted pursuant to section 8.17.050 shall be forfeited to the city if the
10 permittee does not meet the time requirements for reporting pursuant to this section.

11 (e) All reports, letters, and documentation submitted pursuant to this section are subject
12 to verification by the city.

13 (f) On an annual basis, the building official will compile a report that, at a minimum,
14 describes the number and type of permits issued, the number and type of projects covered by
15 diversion requirements, the total tonnage generated, and the estimated diversion resulting from
16 these projects.

17 (g) It is unlawful for any person to submit a report to the city under this section that the
18 person knows to contain any false statement of tonnage of materials recycled or diverted, or
19 any false or fraudulent receipt or weight tag or other record of measurement.

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21 Section 3. If any section, subsection, sentence, clause, phrase, or portion of this
22 ordinance or the application thereof to any person or circumstances is for any reason held
23 invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed
24 a separate, distinct and independent provision and such holding shall not affect the validity of
25 the remaining portions hereof nor other applications of the ordinance which can be given effect
26 without the invalid provision or application, and to this end the provisions of this ordinance are
27 declared to be severable.

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Section 4. This ordinance shall be published as required by law.

Mayor

I, ANN T. MUSSO, City Clerk of the City of Burlingame, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council held on the _____ day of _____, 2000, and adopted thereafter at a regular meeting of the City Council held on the ___ day of _____, 200__, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

City Clerk

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