

ORDINANCE NUMBER ____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA
AMENDING CHAPTERS 8.106 AND 8.108 THE SANTA MONICA MUNICIPAL CODE
RELATED TO GREEN BUILDING DESIGN AND CONSTRUCTION AND DEMOLITION
WASTE HANDLING REQUIREMENTS

WHEREAS, the City of Santa Monica is committed to maintaining a land use and building permit process that is reasonable and efficient; and

WHEREAS, in recent years there has been both worldwide and local concerns raised about escalating energy costs and the effects of global warming; and

WHEREAS, buildings consume approximately 70% of the electricity in the United States and building construction and demolition practices consume large quantities of valuable resources; and

WHEREAS, the City of Santa Monica has a long standing commitment to leadership in green building standards, sustainable design and construction practices, water and other resource conservation and the reduction of greenhouse gas emissions; and

WHEREAS, precious resources can be saved and harmful environmental emissions can be reduced by the inclusion of sustainable construction and demolition practices and by incorporating green building standards, practices and principles into building and landscape design, maintenance, construction and demolition; and

WHEREAS, the standards and requirements set forth in this ordinance are consistent in principle with the goals, objectives, policies, land uses and programs specified in the adopted General Plan; and

WHEREAS, Health and Safety Code Section 18938 provides that the triennial edition of the California Building Standards Code establishes building standards for all occupancies throughout the State and requires that these standards incorporate the latest editions of the Technical Codes with necessary California amendments; and

WHEREAS, Health and Safety Code Section 18941.5 provides that the City may establish more restrictive building standards if they are reasonably necessary due to local climatic, geological or topographical conditions; and

WHEREAS, Public Resource Code Section 25402.1(h)(2) provides that a local enforcement agency may adopt more restrictive energy standards when they are cost-effective and approved by the Energy Commission; and

WHEREAS, at its October 26, 2010 meeting, the City Council considered the 2010 edition of the California Building Standards Codes, which incorporates by reference the various editions of the Technical Codes, and all of the referenced standards, tables, matrices and appendices of each of these Codes therein; and

WHEREAS, on November 9, 2010, the City Council adopted Ordinance Number 2328 (CCS), which adopted by reference the 2010 edition of the California Building Standards Codes and the Santa Monica local amendments to these Technical Codes; and

WHEREAS, the State Energy Commission staff has consider these proposed energy standards and preliminarily approved the recommended changes; and

WHEREAS, based upon the findings contained in the Resolution adopted concurrently with this Ordinance, the City Council has found that certain additional modifications and additions to the California Building Standards Code are reasonably necessary based upon local climatic, topographical and geological conditions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 8.106.030 of the Santa Monica Municipal Code is hereby amended as follows:

8.106.030 Mandatory and voluntary ~~requirements~~measures.

Amend Section 101.10 of the 2010 California Green Building Standards Code to read as follows:

101.10 Mandatory and Voluntary ~~Requirements~~Measures. This code contains both mandatory and voluntary green building measures. Mandatory and voluntary measures are identified in the appropriate application checklist contained in this code. The mandatory measures of Chapter 4 and voluntary measures of Appendix A4 are applicable to new low-rise residential buildings. The mandatory measures of Chapter 5 and voluntary measures of Appendix A5 are applicable to all new buildings which are not low-rise residential buildings.

Section 2. Section 8.106.050 of the Santa Monica Municipal Code is hereby amended as follows:

8.106.050 ~~Sustainability~~Additional Definitions.

Amend Section 202 of the 2010 California Green Building Standards Code to include the following:

Sustainability. Consideration of present development and construction impacts on the community, the economy, and the environment without compromising the needs of the future.

Unshaded. A roof area is considered unshaded if it is unshaded by fixed objects during the majority of the daylight hours between March 21st and September 21st.

Section 3. Section 8.106.055 of the Santa Monica Municipal Code is hereby added as follows:

8.106.055 Low-Rise Residential Energy Efficiency

Amend Section 4.201 of the 2010 California Green Building Standards Code to read as follows:

4.201.1 Energy Efficiency

All new buildings shall be designed to use 15% less energy than the allowed energy budget established by the California Energy Code.

4.201.3 Solar Pool Heating

a) For new pool construction, if the pool is to be heated, renewable energy shall be used for such heating purpose provided that:

1) surface area of the solar collectors used to generate such renewable energy is equal to or greater than seventy-percent (70%) of the surface area of the pool;

or

2) renewable energy provide at least sixty-percent (60%) of the total energy necessary for heating purpose.

b) Electrical resistance heaters that are not powered directly by renewable energy sources shall not be used to heat pool water.

c) The requirements of this Section shall be waived or reduced, by the minimum extend necessary, in situations where installation of solar water heating is technically infeasible due to lack of unshaded area to install solar collectors, lack of adequate roof space, additional water pumping energy use exceeding half of the energy derivable from the renewable energy system, or other similar conditions.

4.201.4 Pipe Insulation

When a water heater is installed in any new or existing building, all exposed and accessible domestic hot water distribution and recirculation system piping connected to such water heater shall be thermally insulated from the water heater to the end-use fixtures. Insulation thickness shall meet the requirements of the California Energy Code.

4.201.5 Solar Ready Requirements

All new buildings shall provide solar-ready roof area to facilitate the installation of future solar energy equipment.

a) Such solar-ready roof area shall be:

i) Either flat, or south-facing with a thirty-three percent (33%) roof slope (four units vertical in twelve units horizontal) or less;

ii) Unshaded;

iii) Free from obstructions;

iv) In contiguous areas of no less than 100 square feet; and

v) Not otherwise required to be left open in order to ensure adequate fire or life-safety protection, including but not limited to required clearances for firefighting access.

b) Minimum solar-ready roof space required:

i) Single Family Dwellings: 250 square feet

ii) All other buildings: 30% of the total roof area

c) Exceptions:

The requirements of this Section shall be waived if:

i) The building is designed and constructed with a solar energy system that is tied to the electrical grid and is capable of generating electricity;

ii) The roof of the building is designed and approved to be used for vehicular traffic or parking; or

iii) Compliance is technically infeasible due to lack of sufficient unshaded area based on surrounding conditions, lack of sufficient roof space or other similar conditions.

Section 4. Section 8.106.057 of the Santa Monica Municipal Code is hereby added as follows:

8.106.057 Low-Rise Residential Plumbing Fixture Requirements

Add Section 4.303.1.1 to the 2010 California Green Building Standards Code to read as follows:

4.303.1.1 Applicability. New plumbing fixtures installed in any new or existing building, including additions, alterations, and repairs, shall meet the water use specifications established in Section 4.303.1.

The requirements of Section 4.303.1.1 shall be waived if the applicant can demonstrate that compliance is technically infeasible due to insufficient waste line carry or other similar conditions.

Section 5. Section 8.106.180 of the Santa Monica Municipal Code is hereby added as follows:

8.106.180 Non-Residential and High-Rise Residential Energy Efficiency

Amend Section 5.201 to the 2010 California Green Building Standards Code to read as follows:

5.201.1 Energy Efficiency

All new buildings shall be designed to use 15% less energy than the allowed energy budget established by the California Energy Code.

5.201.3 Solar Pool Heating

a) For new pool construction, if the pool is to be heated, renewable energy shall be used for such heating purpose provided that:

1) surface area of the solar collectors used to generate such renewable energy is equal to or greater than seventy-percent (70%) of the surface area of the pool;

or

2) renewable energy provide at least sixty-percent (60%) of the total energy necessary for heating purpose.

b) Electrical resistance heaters that are not powered directly by renewable energy sources shall not be used to heat pool water.

c) The requirements of this Section shall be waived or reduced, by the minimum extend necessary, in situations where installation of solar water heating is

technically infeasible due to lack of unshaded area to install solar collectors, lack of adequate roof space, additional water pumping energy use exceeding half of the energy derivable from the renewable energy system, or other similar conditions.

5.201.4 Pipe Insulation

When a water heater is installed in any new or existing building, all exposed and accessible domestic hot water distribution and recirculation system piping connected to such water heater shall be thermally insulated from the water heater to the end-use fixtures. Insulation thickness shall meet the requirements of the California Energy Code.

5.201.5 Solar Ready Requirements

All new buildings shall provide roof area to facilitate the installation of future solar energy equipment.

a) Such roof area shall be:

i) Either flat, or south-facing with a thirty-three (33%) roof slope (four units vertical in 12 units horizontal) or less;

ii) Unshaded;

iii) Free from obstructions;

iv) In contiguous areas of no less than 100 square feet; and

v) Not otherwise required to be left open in order to ensure adequate fire or life-safety protection, including but not limited to required clearances for firefighting access.

b) Minimum solar-ready roof space required:

i) All other buildings: 30% of the total roof area

c) Exceptions:

The requirements of this Section shall be waived if:

i) The building is designed and constructed with a solar energy system that is tied to the electrical grid and is capable of generating electricity; or

ii) The roof of the building is designed and approved to be used for vehicular traffic or parking; or

iii) Compliance is technically infeasible due to lack of sufficient unshaded area based on surrounding conditions, lack of sufficient roof space or other similar conditions.

Section 6. Section 8.106.190 of the Santa Monica Municipal Code is hereby added as follows:

8.106.190 Non-Residential and High-Rise Residential Plumbing Fixture Requirements

Add Section 5.303.1.1 to the 2010 California Green Building Standards Code to read as follows:

5.303.3 Applicability. New plumbing fixtures installed in any new or existing building, including additions, alterations, and repairs, shall meet the water use specifications established in Section 5.303.2.

The requirements of Section 5.303.3 shall be waived if the applicant can demonstrate that compliance is technically infeasible due to insufficient waste line carry or other similar conditions.

Section 7. Section 8.108.110 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.110 Definitions.

For the purposes of Subpart C of this Chapter, the following definitions shall apply:

~~—(a)— “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.~~

~~(ab) “Class III landfill” means a landfill that accepts non-hazardous resources such as household, commercial, and industrial waste, resulting from construction, remodeling, repair, and demolition operations. A Class III landfill must have a solid waste facilities permit from the California Integrated Waste Management Board (CIWMB) State of California and is regulated by an Enforcement Agency (EA).~~

~~—(c)— “Construction” means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.~~

~~(bd) “Construction and demolition material” (C&D Material) means building materials and solid waste resulting from construction, remodeling, repair, cleanup, or demolition operations that are not hazardous as defined in California Code of Regulations, Title 22 Section 66261.3 et seq. This term includes, but is not limited to, asphalt, concrete, Portland cement concrete, brick, lumber, gypsum wallboard, cardboard, and other associated packaging, roofing material, ceramic tile, carpeting; plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and~~

other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

(ce) “C&D recycling center” means a facility that receives only C&D material that has been separated for reuse prior to receipt, in which the residual (disposed) amount of waste in the material is less than ten percent of the average weight of material separated for reuse received by the facility over a one month period.

(df) “City-sponsored project” means a project constructed by the City or a project receiving fifty percent or more of its financing from the City.

(eg) “Conversion rate” means the rate set forth in the standardized conversion rate table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in the waste management plan.

(fh) “Covered project” shall have the meaning set forth in Section 8.108.120.

~~(i) “Deconstruction” means the careful dismantling of buildings and structures in order to salvage as much material as possible.~~

~~(j) “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.~~

~~(k) “Disposal” means the final deposition of construction and demolition or inert material, including but not limited to:~~

~~(1) Stockpiling onto land of construction and demolition material that has not been sorted for further processing or resale, if such stockpiling is for a period of time greater than thirty days; or~~

~~—(2)— Stockpiling onto land of construction and demolition material that has been sorted for further processing or resale, if such stockpiling is for a period of time greater than one year; or~~

~~—(3)— Stockpiling onto land of inert material that is for a period of time greater than one year; or~~

~~—(4)— Disposal of construction and demolition or inert material to a landfill.~~

~~(g) “Divert” means to use material for any purpose other than disposal in a landfill or transformation facility.~~

~~(hm) “Diversion requirement” means the diversion of at least sixty-five seventy percent of the total construction and demolition material generated by a project via reuse or recycling, unless the applicant has been granted an exemption pursuant to Section 8.108.170, in which case the diversion requirement shall be the maximum feasible diversion rate established by the waste management plan Compliance Official in relation to the project.~~

~~(n) “Enforcement agency (EA)” means an enforcement agency as defined in Public Resources Code Section 40130.~~

~~(o) “Inert backfill site” means any location other than an inert landfill or other disposal facility to which inert materials are taken for the purpose of filling an excavation, shoring, or other soils engineering operation.~~

~~(p) “Inert disposal facility/inert waste landfill” means a disposal facility that accepts only inert waste such as soil and rock, fully cured asphalt paving,~~

uncontaminated concrete (including fiberglass or steel reinforcing rods embedded in the concrete), brick, glass, and ceramics, for land disposal.

~~(g) “Inert solids/inert waste” means non-liquid solid resources including, but not limited to, soil and concrete, that do not contain hazardous waste or soluble pollutants at concentrations in excess of water quality objectives established by a regional Water Board pursuant to Division 7 (Section 13000 et seq.) of the California Water Code and does not contain significant quantities of decomposable solid resources.~~

~~(r) “Mixed material” means loads that include commingled recyclables and non-recyclable materials generated at the project site.~~

~~(s) “Mixed material recycling facility” means a processing facility that accepts loads of mixed construction and demolition debris for the purpose of recovering re-usable and recyclable materials and disposing the non-recyclable residual materials.~~

~~(t) “Performance security” means any performance bond, surety bond, money order, letter of credit, certificate of deposit, or restricted bank account, provided to the City pursuant to Section 8.108.140.~~

~~(u) “Post-consumer material” as defined in Public Contract Code Section 12200(b) means a finished material which would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. Post-consumer material is generally any product that was bought by the consumer, used, and then recycled into another product.~~

~~(iv) “Project” means any activity which requires an application for a building or demolition permit or any similar permit from the City.~~

~~—(w) “Recycled product” as defined in Public Contract Code Section 12200(a) means all materials, goods, and supplies with no less than fifty percent of the total weight of which consists of secondary and post-consumer material with not less than ten percent of its total weight consisting of post-consumer material. This definition applies to paper products, plastic products, compost and co-compost, glass products, lubricating oils, paints, solvents, retreaded tires, tire-derived products, and steel products. A recycled product also includes products that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form.~~

~~—(jx) “Recycling” means the process of collecting, sorting, cleansing, treating, and reconstituting materials for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, or thermally destroying solid waste.~~

~~—(y) “Renovation” means any change, addition or modification in an existing structure.~~

~~—(kz) “Reuse” means the use, in the same or similar form as it was produced, of a material which might otherwise be discarded.~~

~~—(aa) “Salvage” means the controlled removal of construction and demolition material from a permitted building or construction site for the purposes of recycling, reuse, or storage for later recycling or reuse.~~

~~—(bb) “Sanitary wastes” means materials that require special handling procedures such as liquid wastes including domestic sanitary sewage;~~

~~(cc) "Secondary material" as defined in Public Contract Code Section 12200(c) means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes post-consumer material, but does not include excess virgin resources of the manufacturing process. This material did not reach the consumer prior to being recycled.~~

~~(dd) "Sediment" means soil and other material that has been eroded and transported by storm or well production runoff water.~~

~~(ee) "Separated for reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing of those materials for reuse or recycling in order to return 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, and includes source separated materials.~~

~~(#m) "Solid waste" as per Public Resources Code Section 40191 means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse; paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include any of the following wastes:~~

~~(1) Hazardous waste, as defined in PRC Section 40141;~~

(2) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code);

(3) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code).

(gg) "Source separated materials" means materials that are sorted at the site of generation by individual material type including commingled recyclable materials for the purpose of recycling; i.e., loads of concrete that are source-separated for delivery to a recycling facility.

~~(hh) "Virgin material" means the portion of the product made from non-recycled material, that is, the material that is neither post-consumer nor secondary material.~~

(oi) "Waste hauler" means a company that possesses a valid permit from the City of Santa Monica to collect and transport solid wastes from individuals or businesses for the purpose of recycling or disposal under the City of Santa Monica's name.

(jp) "Waste management plan" (WMP) means a completed waste management plan form, approved by the City for the purpose of compliance with this Chapter, submitted by the applicant for any covered or non-covered project.

(kk) "Waste management plan compliance official" means the Director of Environmental and Public Works Management or his or her designee City staff tasked with enforcement of this Subpart.

Section 8. Section 8.108.120 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.120 Threshold for covered projects.

(a) Private Projects. All construction and demolition projects the total costs of which are, or are projected to be, fifty thousand dollars or greater, or are one thousand square feet or greater, and all demolition-only projects shall be considered covered projects. (“covered projects”) shall be required to divert at least sixty-five percent of all project-related construction and demolition material in compliance with this Chapter. Inert materials shall be excluded from calculating compliance with this requirement.

(b) City-Sponsored Projects. All City-sponsored construction, demolition and renovation projects shall be subject to this Chapter, and consequently, shall be considered covered projects.

(c) Compliance as a Condition of Approval. Compliance with this Chapter shall be included as a condition of approval on any construction or demolition permit issued for a covered project.

Section 9. Section 8.108.130 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.130 Submission of a waste management plan.

(a) WMP Forms. Applicants for construction or demolition permits involving a covered project shall complete and submit a waste management plan (WMP), on a WMP form approved by the City for this purpose, as part of the application packet for the construction or demolition permit. The completed WMP shall indicate all of the following:

(1) The estimated volume or weight of the project C&D material, by material type, to be generated;

(2) The maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;

(3) The vendor or facility where the applicant proposes to use to collect or receive that material; and

(4) The estimated volume or weight of C&D materials that will be landfilled in Class III landfills and inert disposal facilities; and;

(5) A commitment that only City permitted waste haulers would be used.

(b) Calculating Volume and Weight of Material. In estimating the volume or weight of materials identified in the WMP, the applicant shall use the conversion rates approved by the City for this purpose.

~~(c) Deconstruction. In preparing the WMP, applicants for demolition permits involving the removal of all or part of an existing structure shall consider deconstruction ("deconstruction"), to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to landfilling. Deconstruction can be used to meet the sixty-five percent diversion requirement provided it is accounted for in the WMP.~~

~~(d) Salvage Audit. Each applicant will be provided information concerning a salvage audit and encouraged to have a salvage audit conducted prior to commencing any deconstruction.~~

Section 10. Section 8.108.140 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.140 Performance security.

The project applicant shall submit a performance security with the WMP. For construction and demolition projects, the amount of the performance security shall be calculated as the lesser of three percent of total project cost or thirty thousand dollars. For demolition-only projects, the amount of the performance security shall be calculated at the rate of one dollar per square foot with a one thousand dollar minimum and thirty-thousand dollar maximum performance security required.

Section 11. Section 8.108.150 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.150 Review of WMP.

(a) Approval. Notwithstanding any other provisions of this Code, no building or demolition permit shall be issued for any covered project unless and until the WMP Compliance Official has reviewed and approved the WMP. Approval shall not be required, however, where an emergency demolition is required to protect public health or safety. The WMP Compliance Official shall only approve a WMP if he or she first determines that all of the following conditions have been met:

(1) The WMP provides all of the information set forth in Section 8.108.130.

(2) The WMP indicates that at least ~~sixty-five~~seventy percent of all C&D material generated by the project will be diverted or an exemption has been approved pursuant to Section 8.108.170.

(3) The applicant has submitted an appropriate performance security in compliance with Section 8.108.140.

~~If the WMP Compliance Official determines that these conditions have been met, he or she shall mark the WMP “Approved,” return a copy of the WMP to the applicant, and notify the Building Department and the Solid Waste Management Division that the WMP has been approved.~~

~~—(b) Nonapproval. If the WMP Compliance Official determines that the WMP fails to meet the conditions specified in subsection (a) of this Section, he or she shall either:~~

~~—(1) Return the WMP to the applicant marked “Denied” including a statement of reasons, and so notify the Building Department, to ensure that the construction or demolition permit does not issue; or~~

~~—(2) Return the WMP to the applicant marked “Further Explanation Required.”~~

~~If the applicant determines during the course of the project that the estimated tonnage of material to be generated and/or recovered from the project is substantially different from the WMP, applicant shall submit an addendum to the original WMP.~~

~~Section 12. Section 8.108.160 of the Santa Monica Municipal Code is hereby amended as follows:~~

~~8.108.160 Compliance with WMP.~~

~~(a) Documentation. Within thirty days after the completion of any covered project, the applicant shall submit to the WMP Compliance Official documentation that it has met the diversion requirement for the project. Applicant shall provide a summary of efforts used to meet the diversion requirement and also provide the following documentation:~~

(1) Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material;

(2) Weight slips/count of material salvaged or reused in current project;

(3) A copy of the previously approved WMP for the project adding the actual volume or weight of each material diverted and landfilled;

(4) Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this Chapter.

(b) Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all C&D material diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all C&D material shall be weighted by measurement on scales. Such scales shall be in compliance with all State and County regulatory requirements for accuracy and maintenance. For C&D material for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements by weight, the applicant shall use the standardized conversion rates approved by the City for this purpose.

(c) Determination of Compliance and Release of Performance Security. The WMP Compliance Official shall review the information submitted under subsection (a) of this Section to determine whether the applicant has complied with the diversion requirement as follows:

(1) Full Compliance. If the WMP Compliance Official determines that the applicant has fully complied with the diversion requirement applicable to the project, he or she shall cause the full performance security to be released to the applicant.

(2) Failure to Comply. If the WMP Compliance Official determines that the diversion requirement has not been met, he or she shall return only that portion of the performance security equivalent to the portion of C&D material actually diverted compared to the portion that should have been diverted according to the WMP. Any portion of the performance security not released to the applicant shall be forfeited to the City, and shall be used to recover costs associated with sorting mixed C&D loads at the City recycling center. If the WMP Compliance Official determines that the applicant has fully failed to comply with the diversion requirement or if the applicant fails to submit the documentation required by subsection (a) of this Section within the required time period, then the entire performance security shall be forfeited to the City. All forfeited performance securities shall be used to recover costs associated with sorting mixed C&D loads at the City recycling center.

Section 13. Section 8.108.170 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.170 Exemption.

(a) Application. If an applicant believes it is infeasible to comply with the diversion requirements of this Chapter due to the circumstances delineated in this Section, the applicant may apply for an exemption at the time that he or she submits the required WMP. Exemptions may be granted based on the following considerations:

- (1) Lack of storage space onsite;
- (2) Contamination by hazardous substances;
- (3) Low recyclability of specific materials.

The applicant shall indicate on the WMP the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion requirement.

~~(b) Meeting with WMP Compliance Official. The WMP Compliance Official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion requirement. Upon request of the jurisdiction, the WMP Compliance Official may request that staff from the Solid Waste Management Division attend this meeting or may require the applicant to request a separate meeting with Solid Waste Management Division staff. Based on the information supplied by the applicant and, if applicable, Solid Waste Management staff, the Compliance Official shall determine whether it is possible for the applicant to meet the diversion requirement.~~

(be) Granting of Exemption. If the WMP Compliance Official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMP submitted by the applicant. The WMP Compliance Official shall return a copy of the WMP to the applicant marked "Approved Exemptions and shall notify the Building Department that the WMP has been approved.

~~(cd) Denial of Exemption. If the WMP Compliance Official determines that it is possible for the applicant to meet the diversion requirement, he or she shall inform the applicant in writing. Upon a denial by the WMP Compliance official, the applicant shall have thirty days to resubmit a WMP form in full compliance with Section~~

8.108.130. If the applicant fails to resubmit the WMP, or if the resubmitted WMP does not comply with Section 8.108.130, the WMP Compliance Official shall deny the WMP.

Section 14. Section 8.108.180 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.180 Appeal.

The applicant or any interested person may appeal to a Hearing Examiner from any ruling of the WMP Compliance Official made pursuant to this Chapter in accordance with Section 6.16.030. Notice of any appeal from the ruling of the WMP Compliance Official must be filed within ten days of the date that such ruling is made. ~~The decision of the Hearing Examiner upon such appeal, relative to any matter within the jurisdiction of the WMP Compliance Official, shall be final and shall not be appealable to the City Council or to any other City body or official.~~

Section 15. Section 8.108.190 of the Santa Monica Municipal Code is hereby amended as follows:

8.108.190 Enforcement.

~~(a) The Director of the Department of Environmental and Public Works Management, or his or her designee, is authorized to enforce Sections 8.108.130 through 8.108.160 as follows:~~

~~(1) For the first failure to comply with the provisions of Sections 8.108.130 through 8.108.160, the Department of Environmental and Public Works Management shall issue to the affected person a written notice that includes the following information:~~

~~(i) A statement specifying the violation committed;~~

~~—(ii)— A specified time period within which the affected person must correct the failure or file a written notice disputing the notice to comply;~~

~~—(iii)— A statement of the penalty for continued noncompliance;~~

~~—(2)— For each subsequent failure to comply with any provisions of Sections 8.108.130 through 8.108.160 following written notice pursuant to this Section, the Director of the Department of Environmental and Public Works Management may levy a penalty not to exceed five hundred dollars. Any statement informing a violator of a citation shall include a notice setting forth the hearing rights provided in subsection (a)(3) below.~~

~~—(3)— Any person assessed a penalty pursuant to subsection (a)(2) may dispute the penalty by requesting a hearing on a form provided by the City within the time and manner set forth in Section 6.16.030 provided that no hearing request shall be deemed timely filed and no hearing shall be held unless, within the time period to request a hearing, the person deposits with the City Treasurer money in the amount of any unpaid penalty due under this Section. If as a result of the hearing it is determined that the penalty was wrongly assessed, the City shall refund any money deposited to the person. The decision of the Hearing Examiner shall be final except for judicial review and shall not be appealable to the City Council.~~

~~(a) The City Attorney may enforce the provisions of this Subpart by means of a civil action.~~

~~(b) Any person who violates any provision of this Subpart shall be subject to administrative fines and administrative penalties pursuant to Chapters 1.09 and 1.10 of this Code.~~

(c) Nonexclusive Remedies and Penalties. The remedies provided in this Subpart are not exclusive, and nothing in this Subpart shall preclude any person from seeking any other remedies, penalties or procedures provided by law.

(d4) It shall not be a defense to the assessment of any penalty or to any other civil or administrative enforcement action provided for under this Section for a person to assert that any violation of Sections 8.108.130 through 8.108.160this Subpart was caused by the actions of a person other than the person assessed except if the violation was caused by the criminal or negligent action of a person who was not an agent, servant, employee or family member of the person.

(e5) Any penalty collected hereunder shall be deposited in the Refuse Fund to be used as reimbursement for the Department of Environmental and Public Works DepartmentManagement's costs and expenses of administration and enforcement of this Chapter.

Section 16. Section 8.108.020 of the Santa Monica Municipal Code is hereby repealed.

8.108.020 Scope:

~~The provisions of this Chapter shall apply to all new buildings, and existing buildings whose repair, alteration or rehabilitation costs exceed fifty percent of their replacement cost as determined by Section 8.84.040. The provisions of this Chapter shall not apply to qualified historic buildings as defined in the State Historical Building Code.~~

Section 17. Section 8.108.030 of the Santa Monica Municipal Code is hereby repealed.

8.108.030 Use of green construction materials.

—All buildings subject to the provisions of this Chapter shall be built with a minimum of five green construction materials selected from a list that has been approved and issued by the Director of Environmental and Public Works Management. Materials shall be selected for inclusion on the list based on their impacts on durability, energy efficiency, water use efficiency, recycled content, low emissions, and resource depletion.

Section 18. Section 8.108.040 of the Santa Monica Municipal Code is hereby repealed.

8.108.040 Additional mandatory features.

—All buildings subject to the provisions of this Chapter shall comply with the following standards:

—(a) Green Building Checklist. A green building checklist shall be completed prior to construction and submitted to the Director of Environmental and Public Works Management. For single-family residential and for multi-family residential under four stories, this checklist shall be either a LEED-Homes checklist, a GreenPoint Rated checklist, or a Santa Monica Residential Green Building checklist. For all other buildings, a LEED checklist shall be submitted.

—(b) Solar Water Heating. If heated water is to be used, solar collectors shall be used to heat pool, spa, and whirlpool water and to preheat industrial process water, including but not limited to, car washes and laundries. Solar collectors used for pool, spa, or whirlpool heating shall either:

~~—(1) Provide at least sixty percent of the energy to heat swimming pool, spa and whirlpool water; or~~

~~—(2) Cover an area equal to or greater than seventy percent of the surface area of the pool and one hundred percent of the surface area of the spa.~~

~~—Electrical resistance heaters that are not powered directly by renewable energy sources shall not be used to heat pool, spa, or whirlpool water~~

~~—(c) Pipe Insulation. All hot water distribution and recirculation system piping shall be thermally insulated from the heater to the end-use fixtures. Pipe insulation shall have R-value equal to R-6 for piping two inches or less in diameter and R-8 for larger piping.~~

~~—(d) Heat Traps. Heat traps shall be provided on the inlets and outlets of non-circulating hot water heaters and tanks to reduce the buoyancy-induced flow of hot water through the piping. If piping is looped to create a heat trap, the loop shall have a minimum external diameter of twelve inches.~~

~~Section 19. Section 8.108.050 of the Santa Monica Municipal Code is hereby repealed.~~

~~8.108.050 Priority plan check processing for LEED certified buildings.~~

~~—(a) New buildings and existing buildings whose repair, alteration, or rehabilitation costs exceed fifty percent of their replacement cost as determined in Section 8.84.040 of this code, that are registered with the United States Green Building Council for, and are actively pursuing certification under the Leadership in Energy and Environmental Design Green Building Rating System (LEED), including LEED for Homes (LEED-H), LEED for New Construction (LEED-NC), and LEED for Core and~~

~~Shell (LEED-CS), shall receive priority plan check processing by all City departments. Registering for LEED certification for Commercial Interiors (LEED-CI) or LEED for Existing Buildings (LEED-EB) does not qualify projects for expedited plan check processing pursuant to this Section.~~

~~—(b)— All applicants wishing to receive priority plan check processing pursuant to subsection (a) of this Section must submit their LEED checklist to the City indicating all of the credits they intend to pursue. Applicants must also clearly specify the materials, systems and strategies they will use to achieve the credits in the plans submitted to the City for plan check approval.~~

~~—(c)— The City Council may establish, by resolution, a fine to be imposed on projects that fail to achieve LEED certification for any project that received priority plan check processing pursuant to this Section.~~

~~Section 20. Section 8.108.060 of the Santa Monica Municipal Code is hereby repealed.~~

~~8.108.060 Santa Monica Energy Code Compliance requirements.~~

~~—(a)— In addition to and notwithstanding any provisions of the California Energy Code or any other provision of this Code, all buildings subject to this Chapter shall comply with either the performance or the prescriptive approach requirements of this Section. The purpose of these requirements is to reduce the energy demanded and consumed within the City of Santa Monica so as to protect the public health, safety and welfare of the community, including the protection and enhancement of the environment from greenhouse gases and other emissions.~~

~~—(1) If a performance approach is selected, the building must demonstrate to the satisfaction of the Director of Environmental and Public Works Management, that the Time Dependent Value (TDV) energy for the project, is at least ten percent less than the TDV energy for the Title 24 standard comparison case set forth in the most recent California Title 24 Energy Code standards in effect at the time that approval of compliance is sought.~~

~~—(2) If a prescriptive approach is selected or if a building does not demonstrate compliance with the performance approach requirements of this Section, then the prescriptive approach requirements of this Section apply.~~

~~—(b) Prescriptive Requirements:~~

~~—(1) Residential buildings with two or fewer dwelling units must meet all of the requirements for either option A, B, or C, described below:~~

~~—(A) Option A. Plumbing systems shall be fitted with a drain water heat recovery system that preheats domestic hot water with heat recovered from drain water. A drain water heat recovery system shall consist of a minimum of forty feet of three-quarter-inch cold water supply line coiled around a thirty inch vertical drop in the drain line connected to each shower fixture in the house, or equivalent as approved by the Building Officer.~~

~~—(B) Option B.~~

~~—(i) Domestic water heaters with input capacities less than or equal to seventy five thousand Btu/h must have a minimum energy factor of:~~

~~—a. 0.634 for forty-gallon water heaters;~~

~~—b. 0.615 for fifty-gallon water heaters;~~

~~— c. — 0.596 for sixty-gallon water heaters;~~

~~— d. — 0.568 for seventy-five-gallon water heaters;~~

~~— e. — 0.800 for tankless water heaters.~~

~~— (ii) — Domestic water heaters with input capacities exceeding seventy-five thousand Btu/h must have a recovery efficiency no less than eighty-four percent.~~

~~— (iii) — All dishwashers, refrigerators, and clothes washers installed by the time of final inspection must have an Energy Star rating.~~

~~— (C) Option C:~~

~~— (i) — No mechanical cooling shall be installed for the residence. The residence shall be designed to maintain comfort conditions through natural ventilation, and other envelope measures.~~

~~— (ii) — All dishwashers, refrigerators, and clothes washers installed at the time of final inspection must have an Energy Star rating.~~

~~— (2) — Residential buildings with three or more dwelling units and all hotels or motels as defined in Article 9 of this Code, must meet all of the following three requirements and all of the requirements either for option A, B or C set forth below:~~

~~— Domestic water booster pumps greater than 2.5 hp shall be controlled with variable speed drives;~~

~~— All commercial transformers installed for the building must have an Energy Star rating;~~

~~— Fans or garage ventilation that are 2.0 hp or greater shall be controlled with variable speed drives and with carbon monoxide (CO) monitoring devices.~~

~~— (A) Option A:~~

~~— Plumbing systems shall be fitted with a drain water heat recovery system that preheats domestic hot water with heat recovered from drain water. A drain water heat recovery system shall consist of a minimum of forty feet of three-quarter-inch cold water supply line coiled around a thirty-inch vertical drop in the drain line connected to each shower fixture in the house, or equivalent as approved by the Building Officer.~~

~~— (B) Option B.~~

~~— (i) — All central domestic water heating systems (serving more than three residences per water heater) must have a minimum thermal efficiency of eighty-four percent.~~

~~— (ii) — All individual domestic water heating systems (serving three or fewer residences per water heater, and with input capacities less than or equal to seventy-five thousand Btu/h) must have a minimum energy factor of:~~

~~— a. — 0.634 for forty-gallon water heaters;~~

~~— b. — 0.615 for fifty-gallon water heaters;~~

~~— c. — 0.596 for sixty-gallon water heaters;~~

~~— d. — 0.568 for seventy-five gallon water heaters;~~

~~— e. — 0.800 for tankless water heaters.~~

~~— (iii) — All individual domestic water heating systems (serving three or fewer residences per water heater, and with input capacities greater than seventy-five thousand Btu/h) must have a minimum recovery efficiency of eighty-four percent.~~

~~— (iv) — All dishwashers, refrigerators, and clothes washers installed by the time of final inspection must have an Energy Star rating.~~

~~— (C) Option C.~~

~~—(i)— No mechanical cooling shall be installed for the residences. The residences shall be designed to maintain habitable comfort conditions through natural ventilation and other envelope measures.~~

~~—(ii)— All dishwashers, refrigerators and clothes washers installed by the time of final inspection must be rated Energy Star.~~

~~—(3)— All non-residential commercial buildings must comply with at least two of the four following measures in the project:~~

~~—(A)— All commercial transformers installed for the building must have an Energy Star rating.~~

~~—(B)— Fans for garage ventilation that are 2.0 hp or greater shall be controlled with variable speed drives and carbon monoxide (CO) monitoring devices.~~

~~—(C)— Ambient lighting for all office spaces smaller than two hundred fifty square feet must be controlled with occupant sensor lighting controls.~~

~~—(D)— In all spaces greater than two hundred fifty square feet classified as “daylit” spaces by Title 24, any ambient lighting provided shall be controlled with photo-sensor controls and stepped or continuous dimming.~~

~~—(4)— Mixed-use buildings must comply both with the applicable residential and commercial standards.~~

~~Section 21. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.~~

Section 22. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 23. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

MARSHA JONES MOUTRIE
City Attorney