

**CITY OF MADISON, WISCONSIN**

A 2<sup>nd</sup> SUBSTITUTE ORDINANCE \_\_\_\_\_

PRESENTED October 7, 2008  
REFERRED Solid Waste Advisory  
Committee, Commission on  
Environment, Plan Comm.

Creating Section 10.185 and amending Section 1.08(3)(a) of the Madison General Ordinances to require recycling of construction and demolition site waste.

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RULES SUSPENSION \_\_\_\_\_  
PUBLIC HEARING \_\_\_\_\_

Drafted by: Doran Viste

Date: February 16, 2009

SPONSORS: Aids. Gruber & Rhodes-Conway

DRAFTER’S ANALYSIS: This ordinance requires the recycling or reuse of construction, demolition and remodeling debris by persons who obtain City of Madison building, plumbing, electrical, HVAC and demolition permits for certain construction, demolition, and remodeling projects, and creates a bond schedule for the enforcement of these requirements. This ordinance is designed to require recycling or reuse of debris that would otherwise end up in the City landfill.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Creating Section 10.185 entitled “Recycling and Reuse of Construction and Demolition Debris” of the Madison General Ordinances is created to read as follows:

**“10.185 RECYCLING AND REUSE OF CONSTRUCTION AND DEMOLITION DEBRIS.**

- (1) Definitions. For the purposes of this section, the following definitions apply:
  - (a) “Building,” “owner,” and “person” shall have the meanings ascribed to those terms in Sec. 29.03, MGO.
  - (b) “Commercial” means any use other than residential, including, but not limited to, buildings used for retail purposes, offices, manufacturing, and provision of services.
  - (c) “Construction” means the assembly of materials to form a new building.
  - (d) “Construction and demolition debris” means materials resulting from the construction, remodeling, repair and demolition of utilities, structures, buildings, and roads, including but not limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; aluminum and vinyl siding; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics; electrical wiring, and piping or metals incidental to any of those materials blocks, broken concrete, plaster, wire and wood lath, timbers and wood building products and other similar non-putrescible materials. This term does not include materials that are contaminated by lead, asbestos, or other hazardous materials in such a way as to render recycling illegal or impossible, or materials which the Street Superintendent, from time to time, may indicate are no longer able to be readily recycled or reused in an economically viable manner.
  - (e) “Contractor” means any person, other than the property owner, who is responsible for the construction, demolition, or remodeling of a building, and where such work requires the issuance of a building, plumbing, electrical, HVAC or demolition permit under the Madison General Ordinances.

**Approved as to form:**

- (f) "Demolition" means the demolition or dismantling of a building, but does not include the systematic dismantling of part of a building for alteration, maintenance, remodeling or repair.
  - (g) The terms "dwelling," "single-family dwelling," and "two-family dwelling" have the meanings ascribed to those terms in Sec. 29.03, MGO. "Three-family dwelling" is a building containing three (3) dwelling units only. "Multi-family dwelling" is a building, or portion thereof, containing four (4) or more dwelling units.
  - (h) "Recycle" means any process by which construction and demolition debris that would otherwise become municipal waste is collected, separated or processed and diverted from final disposal as solid waste at a permitted landfill in the form of raw materials for new, reused or reconstituted products, and the recovery of materials for energy production processes.
  - (i) "Recycler" means a recycling facility, transfer station or other waste handling facility approved by the Street Superintendent which accepts construction and demolition debris for recycling or for further transfer to a recycling facility.
  - (j) "Remodeling" means any improvements or alterations made to a building that do not involve the complete demolition and reconstruction of the building.
  - (k) "Residential" means a building with one or more dwellings.
  - (l) "Reuse" means:
    - 1. The on-site use of reprocessed construction and demolition debris including bricks, concrete, other masonry materials, soil, and rock used as fill, if such on-site use is authorized in writing by the Street Superintendent;
    - 2. The off-site redistribution of a material, which would otherwise be disposed of, for use in the same or similar manner; or
    - 3. The use of non-toxic wood as an alternative fuel source.
  - (m) "Street Superintendent" shall mean the Street Superintendent or his/her designee.
- (2) Recycling and Reusing Requirement for Multi-Family Dwellings and Commercial Buildings.
- (a) All projects subject to this subsection shall be required to recycle or reuse construction or demolition debris produced on site as part of construction or demolition permit activities by meeting the following requirements:
    - 1. The owner or contractor on a project that is issued a permit with an application date on or after January 1, 2009, but before January 1, 2010, shall cause to be recycled or reused at least fifty percent (50%) of construction and demolition debris produced on site, as measured by weight.
    - 2. The owner or contractor on a project that is issued a permit with an application date on or after January 1, 2010, shall cause to be recycled or reused at least seventy percent (70%) of construction and demolition debris produced on site, as measured by weight.
  - (b) The following projects are subject to this subsection:
    - 1. Construction or demolition of multi-family dwellings
    - 2. Construction or demolition of commercial buildings where the total square footage of the space involved is over one thousand (1,000) square feet.
- (3) Recycling and Reusing Requirements for Residential Buildings and Remodeling Projects.
- (a) The owner or contractor on a project subject to this subsection shall cause to be recycled or reused all of the following construction or demolition debris produced on site as part of construction, demolition, or remodeling permit activities:
    - 1. Wood that has not been rendered toxic by the application or attachment of certain liquids or solids;
    - 2. Non-toxic metals;
    - 3. Clean drywall scrap materials;
    - 4. Corrugated Cardboard; and
    - 5. Shingles.
  - (b) The following projects are subject to this subsection:
    - 1. Construction or demolition of single-family, two-family, and three-family dwellings.
    - 2. Remodeling of residential or commercial buildings, other than roofing projects, where the total value of the project is twenty thousand dollars (\$20,000) or greater.

3. Roofing projects that include the tear-off of the existing roofing materials.
- (c) The following projects are exempt from this section:
  1. A project that only requires a plumbing permit, only an electrical permit or only an HVAC mechanical permit.
  2. A project for which a building permit or demolition permit is not required.
  3. A project for which compliance under this section is waived by the Street Superintendent.
- (4) Certification and Audit of Compliance.
  - (a) Certification. Within sixty (60) days of completion of a project subject to the requirements of subsections (2) or (3), the owner or contractor shall submit documentation certifying compliance with this section as follows:
    1. Certification of compliance shall be made in a form and manner prescribed by the Street Superintendent.
    2. Certification forms shall include the following information:
      - a. A list of the construction and demolition debris that were recycled or reused;
      - b. A summary of where and how the construction and demolition debris were recycled or reused;
      - c. The actual or estimated volume or weight of the construction and demolition debris that were recycled or reused;
      - d. A statement from the owner or contractor that documentation supporting compliance with this section (including, but not limited to, weight tickets from recycling facilities and landfills, or copies thereof) exists and will be maintained for two (2) years from submission of the Certification form;
      - e. A statement from the owner or contractor indicating the extent to which the project complies with the requirements of subsections (2) or (3); and
      - f. A statement from the owner or contractor certifying that the information contained in the form is truthful and accurate.
    3. Proof of LEED (Leadership in Energy and Environmental Design) Certification, or other similar certification acceptable to the Street Superintendent, is sufficient proof of compliance with this section.
  - (b) Audit. Prior to, and up to two (2) years after, submission of a Certification form, the Street Superintendent may initiate an audit of an owner or contractor to monitor and ensure compliance with the requirements of this section. An owner or contractor must comply with all reasonable requests for information and documentation made by the Street Superintendent within thirty (30) days of said request.
  - (c) Requirement to Maintain and Provide Information.
    1. The owner or contractor who submits a certification form as required under this section must maintain documentation supporting compliance with this section (including, but not limited to, weight tickets from recycling facilities and landfills, or copies thereof) for two (2) years after submission of the Certification form.
    2. Within thirty (30) days of a request made under subdivision (b), the owner or contractor must provide the Street Superintendent the requested information or documentation. The failure to provide this requested information or documentation shall be considered proof that the owner or contractor did not recycle or reuse that portion of construction and demolition debris relating to said information or documentation.
- (5) The Street Superintendent may promulgate such rules and regulations as necessary to implement the provisions of this section.
- (6) Penalties.
  - (a) Any person who fails to meet the recycling and reuse requirements in subsection (2) shall be subject to the following forfeitures:
    1. For construction or demolition projects involving ten thousand (10,000) square feet or more of remodeled, newly constructed, or demolished space, for each percentage point of difference between the amount required to be recycled or

- reused and the amount actually recycled or reused, not less than fifty dollars (\$50) nor more than five hundred dollars (\$500); and
2. For construction or demolition projects involving less than ten thousand (10,000) square feet of remodeled, newly constructed, or demolished space, for each percentage point of difference between the amount required to be recycled or reused and the amount actually recycled or reused, not less than twenty five dollars (\$25) nor more than two hundred and fifty dollars (\$250).
    - (b) Any person who fails to meet the recycling and reuse requirements of subsection (3), for the first estimated ton of construction or demolition debris not recycled or reused, not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), and for each subsequent ton not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
    - (c) Any person who fails to follow a requirement of subsection (4) shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
    - (d) Any person who submits a certification under subsection (4) that falsely states or represents that a project has met the requirements of this section, shall be subject to a forfeiture of not less than two hundred and fifty dollars (\$250) nor more than one thousand dollars (\$1000).
  - (7) Effective Date. This ordinance shall be effective 90 days after publication.”

2. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by amending therein the following:

<u>“Offense</u>	<u>Ord. No.</u>	<u>Deposit</u>
<u>Fail to meet recycling or reuse requirements for multi-family dwellings or commercial buildings &gt; 10,000 ft<sup>2</sup></u>	<u>10.185(6)(a)1.</u>	<u>\$500, 1% to 10%</u> <u>\$1000, 11% to 20%</u> <u>\$2000, &gt; 21%</u>
<u>Fail to meet recycling or reuse requirements for multi-family dwellings or commercial buildings &lt; 10,000 ft<sup>2</sup></u>	<u>10.185(6)(a)2.</u>	<u>\$250, 1% to 10%</u> <u>\$500, 11% to 20%</u> <u>\$1000, &gt; 21%</u>
<u>Fail to meet recycling or reuse requirements for residential buildings or remodeling projects</u>	<u>10.185(6)(b)</u>	<u>\$250, &lt; 1 ton</u> <u>\$500, 1 ton to 2 tons</u> <u>\$1000, &gt; 2 tons</u>
<u>Fail to follow compliance procedures</u>	<u>10.185(6)(c)</u>	<u>\$250, per violation</u>
<u>Falsely state or represent compliance with recycling or reuse requirements</u>	<u>10.185(6)(d)</u>	<u>\$500, 1<sup>st</sup> violation</u> <u>\$1000, 2+ violation”</u>

EDITOR’S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved, provided the penalty range is increased.