

CITY OF MADISON, WISCONSIN

A THIRD 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.

RULES SUSPENSION _____
PUBLIC HEARING _____

Drafted by: Doran Viste

Date: May 13, 2009

SPONSORS: Ald. 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 County landfill.

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) "City certified construction debris recycling facility" means a facility certified pursuant to guidelines set forth by the Street Superintendent whose practices cause the recycling or reuse of construction and demolition debris consistent with the requirement of this section.
 - (c) "Commercial" means any use other than residential, including, but not limited to, buildings used for retail purposes, offices, manufacturing, and provision of services.
 - (d) "Construction" means the assembly of materials to form a new building.
 - (e) "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.
 - (f) "Contractor" means any person, other than the property owner, who is responsible for the construction, demolition, or remodeling of a building, or any part thereof, and where

Approved as to form:

such work requires the issuance of a building, plumbing, electrical, HVAC or demolition permit under the Madison General Ordinances.

- (g) "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.
 - (h) 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.
 - (i) "Recycle" means any process by which construction and demolition debris are diverted from final disposal as solid waste at a permitted landfill and instead are collected, separated and/or processed into raw materials for new, reused or reconstituted products, or for the recovery of materials for energy production processes.
 - (j) "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.
 - (k) "Remodeling" means any improvements or alterations made to a building that do not involve the complete demolition and reconstruction of the building.
 - (l) "Residential" means a building with one or more dwellings.
 - (m) "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.
 - (n) "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 the effective date of this section shall cause to be recycled or reused at least seventy percent (70%) of the construction and demolition debris produced on site, as measured by weight or volume.
 - (b) The following types of projects are subject to this subsection:
 - 1. The construction or demolition of a multi-family dwelling.
 - 2. The construction or demolition of a commercial building 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 nonrecyclable by the application or attachment of paint, stains, varnish, or other liquids or solids;
 - 2. Non-toxic metals;
 - 3. Clean drywall scrap materials;
 - 4. Corrugated Cardboard; and
 - 5. Shingles.
 - (b) The following types of projects are subject to this subsection:
 - 1. The construction or demolition of a single-family, two-family, or three-family dwelling.
 - 2. Except for roofing projects, the remodeling of a residential or commercial building where the total value of the project is twenty thousand dollars (\$20,000) or greater.
 - 3. Any roofing project that includes 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, an electrical permit or an HVAC mechanical permit.
2. A project for which a building permit or demolition permit is not required.
3. A project for which, due to changes in the markets for recycled material, the Street Superintendent waives the requirements of this section.

(4) Certification and Audit of Compliance.

(a) Certification.

1. Certification of compliance with this section shall be made by the owner or contractor pursuant to this subdivision, and in the form and manner as prescribed by the Street Superintendent. All certification forms shall include a statement from the owner or contractor certifying that the information contained in the form is truthful and accurate.
2. The owner or contractor subject to the requirements of subsections (2) or (3) shall, either within sixty (60) days of completion of a project or, if the owner or contractor has multiple projects subject to the requirements of this section during a calendar year and has the preauthorization of the Street Superintendent to file an annual report, by December 31 of each calendar year, submit documentation to the Street Superintendent certifying compliance with this section.
3. Except as set forth in paragraph 4., certification forms shall include the following:
 - 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; and
 - e. A statement from the owner or contractor indicating the extent to which the project complies with the requirements of subsections (2) or (3).
4. It shall be sufficient proof of compliance with this section if the owner or contractor submits the following to the Street Superintendent with the certification form:
 - a. Weight tickets from the owner or contractor that show that debris from the project were taken to a City certified construction debris recycling facility; or
 - b. Proof of LEED (Leadership in Energy and Environmental Design) or GBH (Green Built Home) certification, or other similar certification acceptable to the Street Superintendent.
5. The owner or contractor's failure to follow the requirements of this subdivision for any project shall be prima facie evidence that subsections (2) and (3) were not complied with on that project.

(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 subsection 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. The following penalties apply to violations of this section:
 - (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 newly constructed and/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 newly constructed and/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) shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for the first estimated ton of construction or demolition debris not recycled or reused, and not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each subsequent ton of construction or demolition debris not recycled or reused.
 - (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 on January 1, 2010.”

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 > 10,000 ft²</u>	<u>10.185(6)(a)1.</u>	<u>\$500, 1% to 10%</u> <u>\$1000, 11% to 20%</u> <u>\$2000, > 21%</u>
<u>Fail to meet recycling or reuse requirements for multi-family dwellings or commercial buildings < 10,000 ft²</u>	<u>10.185(6)(a)2.</u>	<u>\$250, 1% to 10%</u> <u>\$500, 11% to 20%</u> <u>\$1000, > 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, < 1 ton</u> <u>\$500, 1 ton to 2 tons</u> <u>\$1000, > 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, 1st violation</u> <u>\$1000, 2+ violation”</u>

EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved.