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City of Del Mar Planning Commission Agenda- Revised

Del Mar Town Hall
1050 Camino Del Mar
Del Mar, California
6:00 P.M.
Tuesday, June 11, 2019

Agenda

Nate McCay
Chair

Ted Bakker
Vice Chair

Philip Posner
Commissioner

Don Countryman
Commissioner

Carmel Myers
Commissioner

Kathleen A. Garcia
Planning & Community
Development Director

Amanda Lee
Principal Planner

It is the intention of your Planning Commission to be receptive to your concerns about your community. Your participation in local government will assure a responsible and efficient City of Del Mar.

Regular Meetings of the Planning Commission are generally held on the second Tuesday of the month, beginning at 6:00 p.m. For further information regarding the scheduling of meetings or meeting agendas, check the **City's web-site at www.delmar.ca.us**, or call the Planning Department's office at 858-755-9313. A full Planning Commission agenda packet with all backup information is available at City Hall, the Del Mar Library, and on the City's web site the Friday before each Planning Commission meeting.

Unless otherwise noted, for items on the agenda, **applicants and their team of representatives shall limit their [total] presentations to 10 minutes or less. Other speakers may address the Planning Commission for three minutes each.** Please submit a "Request to Speak" form to the staff member prior to the Chair announcing the agenda item. The forms are located near the door at the rear of the Meeting Room. The Agenda item number being addressed should be indicated on the speaker slip. The Chair will call you forward at the appropriate time.

The applicant or authorized representative must be present in order to ensure action by the Commissioners.

Meeting will end at 11:00 p.m. unless extended by a majority vote of the Commissioners. If all the items on the agenda are not heard, the remaining items will be heard the following Tuesday (if facilities are available) at 1050 Camino Del Mar.

When addressing the Planning Commission, please step forward to the lectern and state your name and address for the record. Whenever possible, lengthy testimony should be presented to the Commissioners in writing and only pertinent points presented orally.

Consent Calendar: The Consent Calendar is considered by the Planning Commission near the beginning of the agenda. Items placed on the Consent Calendar will be approved in accordance with the staff recommendations for the item unless removed from the Consent Calendar by Commissioners, staff, or a member of the public. If you wish to keep an item from being placed on the Consent Calendar, please submit a "Request to Speak" form to the staff member prior to the meeting or be prepared to indicate an objection to the placement on the Consent Calendar when the Chair or staff asks if there are any objections to approval of the Consent Calendar.

This notice will be the only written notice sent. Items, which are continued by the Planning Commission from one Planning Commission meeting to another “date certain” meeting date, will not be re-noticed through the mail.

Final action - the decision of the Planning Commission is final unless a written appeal is filed with the City Clerk, accompanied with a processing fee, within ten (10) working days from the date of notice of the action taken on the application. An approved permit shall not be valid until the 10-day appeal period has expired. The appeal is then forwarded to the City Council, which determines at the Initial Consideration whether to reject the appeal, thereby upholding the Planning Commission’s decision, or to set the matter for a subsequent date for a new (de novo) public hearing review. If a de novo public hearing is set by the City Council, an additional fee will be required.

Special Needs: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk’s office at 858-755-9313. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

As a courtesy to all meeting attendees, **please set cellular phones and pagers to silent mode** and engage in conversations outside the Commissioners Chambers.

Meeting Decorum:

All persons attending the Planning Commission meeting shall conduct themselves in a courteous and respectful manner. Comments shall be directed to the members of the Commission, rather than to others in attendance at the meeting. The Chairperson (or Vice Chair or Chair pro-tem in their absence), is designated as the parliamentarian for the meeting. As deemed appropriate, they may interrupt a speaker with instruction to redirect their remarks to relevant points on the agenda item before the Commission. They may also terminate a speaker’s oral presentation if comments continue to be non-relevant or become disrespectful.

Note: The entirety of the City of Del Mar is located within the Coastal Zone. Some of the development projects listed on this agenda, as noted, require the receipt of a Coastal Development Permit. Some of these projects may also lie in what is known as the “Coastal Development Appeals Area”. For the projects located in the appeals area, the City’s action on the requested Coastal Development Permit may be appealed to the California Coastal Commission. An appeal may be filed with the Coastal Commission within the ten calendar days following the Coastal Commission’s receipt of a notice from the City of its final action on the Coastal Development Permit application. However, before an appeal may be filed with the Coastal Commission, the City’s action on the CDP application must be final, meaning that all of the City’s [separate and internal] appeals processes must first be exhausted.

ROLL CALL

APPROVAL OF MINUTES

- 1) Approval of May 14, 2019 Planning Commission Meeting Minutes

UPDATE

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)

- 1) Conclusion of term for Chair McCay and Commissioner Myers

HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

DISCUSSION AND BRIEFING (Application Items)

CONSENT CALENDAR:

The Planning Commission at the beginning of the meeting can place any item on the agenda upon the Consent Calendar. Consent Calendar items are not subject to public testimony. If you have a concern and wish to present information to the PC, you must be present at the beginning of the meeting to ensure the item will not be placed on consent, or write a letter to the PC prior to the meeting expressing why the application should be taken off the Consent Calendar.

NEW APPLICATION(S):

ITEM 1

A19-002

Construction and
Demolition (C&D)
Recycling Ordinance

Location: Citywide

Owner/Applicant: City of Del Mar

Environmental Status: Categorically Exempt per CEQA Guidelines Article 19, Section 15301 Class 1 (I)- Existing Facilities which covers the demolition and removal of structures and the associated activity regulated by the proposed ordinance (the recycling of construction and demolition materials) will not have a significant impact on the environment.

Staff Contact: Jennifer Gavin, Associate Planner

Description: A request for a Planning Commission recommendation to the City Council regarding a proposed amendment to the Del Mar Municipal Code adding Chapter 23.70 to establish a local process for diversion of construction and demolition waste pursuant with CalGreen Building Standards.

ADJOURNMENT

I, Jennifer Gavin, Associate Planner for the City of Del Mar, certify that a copy of the foregoing was posted at the Del Mar City Hall on Thursday, May 30, 2019.



Jennifer Gavin, Associate Planner
Planning and Community Development Department



**CITY OF DEL MAR
PLANNING COMMISSION REGULAR MEETING
(ACTION) MINUTES
May 14, 2019
Town Hall
1050 Camino Del Mar
Del Mar, CA 92014**



The minutes set forth the actions taken by the Planning Commission on the matters stated. Audio/video recordings of the Planning Commission proceedings are retained for a period of ten years, in accordance with the City's Records Retention Schedule. Audio/video recordings, as well as written materials presented to the Planning Commission, including Red Dots (materials provided to the Planning Commission after the agenda has published), are available on the City's website at www.delmar.ca.us/AgendaCenter or by contacting the Administrative Services Department at (858) 755-9313.

CALL TO ORDER

Chairperson McCay called the Regular Meeting to order at 6 pm.

ROLL CALL

Present: Chair Nate McCay, Vice Chair Ted Bakker, Commissioners Carmel Myers, Don Countryman, and Philip Posner
Absent: None
Staff Present: Principal Planner Amanda Lee, Associate Planner Jennifer Gavin

APPROVAL OF MINUTES

The meeting minutes for March 12, 2019 were unanimously approved.

STAFF UPDATE

Principal Planner Lee provided an update on two items: 1) Update regarding the emergency response to the Jimmy Durante Boulevard bluff failure; and 2) Announcement of FEMA's local assistance meeting in Town Hall on Wednesday, May 15 at 5:00 p.m. regarding the updated Flood Insurance Rate Map.

COMMISSION UPDATE

None.

HEARING FROM THE AUDIENCE ON ITEMS NOT LISTED ON THE AGENDA (Oral Communications)

None.

PLANNING COMMISSION/STAFF DISCUSSION (Non-Application Items)

None.

DISCUSSION AND BRIEFING (Application Items)

Principal Planner Lee explained that Items 2 and 4 were not being heard because Item 2 was continued at the request of the applicant and Item 4 was withdrawn by the City (applicant) because no action is

required by the Planning Commission. The two remaining agenda items (Items 1 and 3) are requests for recommendations to the City Council.

ITEM 1
CUP19-002
CDP19-008

APN: 299-240-27-00, 299-240-12-00, 299-240-25-00, 299-240-13-00, 299-240-14-00

Location: Seagrove Parks

Owner/Applicant: City of Del Mar

Zone: PP (Public Parkland)

Overlay Zones: Open Space

Environmental Status: Exempt

Staff Contact: Jennifer Gavin, Associate Planner

Description: A request to replace 11 existing light poles with 14 new lighting bollards at Seagrove Park.

Note: This project is located within the appeal jurisdiction of the California Coastal Commission.

A presentation was provided by Associate Planner Gavin.

Associate Planner Gavin addressed the submitted red dot correspondence and clarified that lighting for the crosswalk at 15th and Coast Boulevard is not within the scope of this CIP project. The Planning Commission asked staff to provide the City Council with their recommendation to review and consider safety lighting at the crosswalk (separate from this CIP project).

Deputy Public Works Director Mohsen Maali answered questions about the proposed lighting bollards.

After deliberations, the Planning Commission took the following action:

MOTION BY VICE CHAIR BAKKER SECOND BY COMMISSIONER POSNER TO ADOPT A RESOLUTION RECOMMENDING THE CITY COUNCIL APPROVE CUP19-002 AND CDP19-008 (Passed by 5-0 vote)

Ayes: Chair McCay, Vice Chair Bakker, Commissioners Posner, Countryman, and Myers
Noes: None
Absent: None
Abstain: None

ITEM 3
A19-001
Temporary Storage
Unit Ordinance

Location: Citywide

Owner/Applicant: City of Del Mar

Environmental Status: Categorically Exempt per CEQA Guidelines Article 19, Section 15304- Class 4(e) which exempts this type of minor temporary use of land having negligible or no permanent effects on the environment

Staff Contact: Amanda Lee, Principal Planner

Description: A request for a Planning Commission recommendation to the City Council regarding the proposed amendment to Del Mar Municipal Code Supplemental Regulations Section 30.86.180 to clarify the regulations relating to temporary storage units. Chapter 30.86 is not a part of the City's certified

Local Coastal Program. The final decision on the proposed ordinance will be made by the City Council.

A presentation was provided by Principal Planner Lee.

Public comments on the draft ordinance were provided by Bill Michalsky.

Commissioners asked questions generally related to the purpose and intent, allowed duration, size, placement, zoning provisions relating to use, screening requirements, discretionary versus ministerial permit requirements, relationship to other temporary structures (i.e. garden sheds in a back yard), examples of temporary storage units in Del Mar, and comparison to other cities.

The Commission discussed and recommended modifications to the draft ordinance as follows:

1. Increase the time limit for temporary storage units to a maximum of four instances per year limited to a maximum of 15 consecutive days per instance and maximum 60 days per calendar year (from a maximum of 30 days per calendar year).
2. Incorporate language to distinguish the new regulations applicable to temporary storage units (typically located temporarily in a driveway within a street yard) from the existing allowances for common homeowner types of portable storage sheds (typically located on private property within a fenced yard area and screened from view).
3. Add language to the existing code provision for temporary buildings, structures and material storage at active construction sites to also allow construction "roll-on units".
4. Modify the maximum number of temporary storage units per lot to allow for multiple small temporary storage units within the maximum size specified for a larger temporary storage unit.

After deliberations, the Planning Commission took the following action:

MOTION BY COMMISSIONER MYERS SECOND BY COMMISSIONER COUNTRYMAN TO ADOPT A RESOLUTION RECOMMENDING APPROVAL TO THE CITY COUNCIL OF THE TEMPORARY STORAGE UNIT ORDINANCE IF AMENDED TO INCLUDE FOUR MODIFICATIONS AS DISCUSSED AND RECOMMENDED DURING DELIBERATIONS. (Passed by 4-0-1 vote)

Ayes:	Vice Chair Bakker, Commissioners Posner, Countryman, and Myers
Noes:	None
Absent:	None
Abstain:	Chair McCay,

ADJOURNMENT

Chair McCay adjourned the meeting at 6:50 pm.



City of Del Mar Staff Report



PLANNING COMMISSION
STAFF REPORT
June 11, 2019

APPLICATION: Municipal Code Amendment A19-002

REQUEST: That the Planning Commission adopt a Resolution (Exhibit A) to provide a recommendation to the City Council regarding proposed amendments to the Del Mar Municipal code (DMMC) to add a new chapter with regulations related to construction and demolition waste recycling requirements pursuant to State Law.

APPLICANT/OWNER: City of Del Mar

ENVIRONMENTAL REVIEW: The proposed amendments are categorically exempt per CEQA Guidelines Article 19, Section 15301 Class 1 (l)- Existing Facilities which covers the demolition and removal of structures. The associated activity regulated by the proposed ordinance (the recycling of construction and demolition materials) will not have a significant impact on the environment.

BACKGROUND: Construction and Demolition (C&D) waste generated by construction projects is a significant source of waste generated in the City; much of which is recyclable. As a means of reducing the amount of C&D waste going to the landfills, the State of California requires as part of the Green Building Code (a subset of the California Building Code also known as CalGreen) the diversion of C&D waste through recycling and/or salvaging of materials. Currently, projects subject to CalGreen are required to divert 65% of waste generated during construction excluding hazardous materials and/or excavated soil and land clearing debris. Project types currently subject to CalGreen include:

- New construction (residential and non-residential)
- Demolition (residential and non-residential)
- Residential alterations which increase the building's habitable area, volume, or size,
- Non-Residential tenant improvement projects.

In order to create a local process for processing and enforcing the CalGreen C&D recycling requirements, the proposed code amendment (Exhibit B) would add Chapter 23.70 to the City's existing DMMC Title 23- Building Construction.

On May 28, 2019 the Business Support Advisory Committee (BSAC) recommended approval of the ordinance. The Sustainability Advisory Board (SAB) will be providing a recommendation to the Council at their meeting on June 10, 2019 (after the publishing of this staff report).

1050 Camino Del Mar, Del Mar, California 92014-2698. Telephone: (858) 755-9313. Fax:
(858) 755-2794 www.delmar.ca.us

PLANNING COMMISSION

STAFF REPORT:

June 11, 2019

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ANALYSIS:

Staff is asking the Planning Commission to review each of the following sections of the proposed C&D Ordinance and provide feedback or recommended modifications:

Process

The proposed ordinance will require building permit applicants with a project subject to CalGreen to submit a Waste Management Plan (WMP) to the Building Department when applying for a building permit. The WMP must identify the estimated weight of C&D debris to be generated from the project, the weight of the materials to be reused or recycled, and the weight of material to be landfilled. A building permit would not be issued until the WMP demonstrates a plan for diverting waste from the landfill in compliance with CalGreen requirements (currently 65% minimum). Prior to building permit final inspection, the applicant must submit documentation (i.e. recycling and reuse receipts from the facilities used) proving that the diversion requirement was met for the project.

Exemptions

The proposed ordinance provides exemptions for project types not subject to CalGreen and emergency demolition projects. The ordinance also provides the ability for an applicant to apply for an infeasibility exemption subject to approval by the Planning and Community Development Director, if there is a unique circumstance that makes it infeasible to comply with diversion requirements. The Director's determination of infeasibility would be based on the following findings:

1. That circumstances exist that are unique to the project to the effect that compliance with the provisions of this chapter would create an unusual burden on the project that is different than that of similarly situated properties.
2. That project compliance with this chapter would result in minimal or no increase in recycled materials or reduction in waste stream.
3. That diversion of one or more materials involved in the project presents unique and burdensome obstacles and would create an especially onerous economic burden on the project unless diversion of that substance is reduced or eliminated.

Staff has reached out to other cities in San Diego County that have a C&D recycling program and found that very few, if any, exemptions have been requested and/or granted. Therefore, it is anticipated that this exemption process will be rarely used but is important to include for any rare occurrence that may prompt the need for an exemption.

Enforcement

Enforcement for the proposed ordinance is consistent with the City's established enforcement provisions found in DMMC 1.08.

PLANNING COMMISSION

STAFF REPORT:

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Consistency with Del Mar Community Plan

The proposed ordinance would be consistent with Community Plan goals, objectives, and policies to reduce energy consumption and encourage material recycling (Community Plan Goal 1 Objectives and Policy L). The ordinance is also consistent with the City's Climate Action Plan in that it supports the reduction of waste from the landfills, reducing greenhouse gas (GHG) emissions, and incremental steps towards zero waste.

MUNICIPAL CODE AMENDMENT REVIEW PROCESS:

The Planning Commission is asked to review the draft and provide a recommendation to the City Council. The proposed amendment to the DMMC will be considered by the City Council in a public hearing at a future date. The code changes involve amendments to DMMC Title 23 (Building Construction), which is not a part of the City's certified LCP. Therefore, the City Council will be the final decision maker for adoption of the Ordinance.

RECOMMENDATION: The Planning department recommends the Planning Commission adopt the Resolution in Exhibit A to make a recommendation to the City Council.

Respectfully submitted,



Jennifer Gavin
Associate Planner

Exhibit A- Draft Planning Commission Resolution

Exhibit B- Draft Code Amendments

RESOLUTION NO. PC 2019-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DEL MAR, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A MUNICIPAL CODE AMENDMENT (A19-002) BY ORDINANCE TO AMEND DEL MAR MUNICIPAL CODE TITLE 23 (BUILDING CONSTRUCTION) TO ADD CHAPTER 23.70 (CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING) RELATING TO THE REGULATION OF CONSTRUCTION AND DEMOLITION WASTE RECYCLING

WHEREAS, the California Green Building Code Standards (known as CalGreen) requires construction and demolition waste recycling requirements; and

WHEREAS, the City of Del Mar is seeking approval of a Municipal Code Amendment (A19-002), to amend Del Mar Municipal Code (DMMC) Title 23 (Building Construction), to add Chapter 23.70 (Construction and Demolition Debris Recycling); and

WHEREAS, the intent is to establish a local process for implementation and enforcement of CalGreen construction and demolition waste recycling requirements; and

WHEREAS, the proposed amendments are consistent with the Community Plan and Del Mar's Climate Action Plan goals to divert waste from the landfill and reduce greenhouse gas emissions; and

WHEREAS, on May 28, 2019, the Business Support Advisory Committee reviewed the proposed code amendment and recommended approval; and

WHEREAS, the proposed amendments are categorically exempt per CEQA Guidelines Article 19, Section 15301 Class 1 (l)- Existing Facilities which covers the demolition and removal of structures and the associated activity regulated by the proposed ordinance (the recycling of construction and demolition materials) will not have a significant impact on the environment; and

WHEREAS, on **June 11, 2019**, the Planning Commission of the City of Del Mar held a public hearing on application **A19-002**, at which time all persons desiring to be heard were heard; and

WHEREAS, evidence was submitted and considered to include without limitation the Staff Report to the Planning Commission dated June 11, 2019, including report attachments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Del Mar does hereby recommend that the City Council adopt the Ordinance relating to the regulation of construction and demolition waste recycling by adding Chapter 23.70, as attached to the Staff Report.

PASSED AND ADOPTED by the Planning Commission of the City of Del Mar, this **11th day of June, 2019** by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

NATE MCCAY, Chair
Del Mar Planning Commission

Kathleen A. Garcia,
Director of Planning and Community Development

Chapter 23.70
CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

Sections:

- 23.70.010** Definitions
- 23.70.020** Construction and demolition debris diversion requirements.
- 23.70.030** Submission of waste management plan.
- 23.70.040** Review of waste management plan.
- 23.70.050** Compliance with waste management plan.
- 23.70.060** Exemption.
- 23.70.070** Enforcement.

23.70.010 Definitions

A. “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private for profit or nonprofit 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.

B. “Construction” means the building of any improvement or any portion thereof including any tenant improvements to an existing facility or structure.

C. “Construction and Demolition Debris” (“C&D Debris”) means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, deconstruction, or demolition operations on any pavement, house, garage, greenwaste, commercial building, or other structure.

D. “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 a waste management plan.

E. “Deconstruction” means the process of carefully dismantling a building or structure in order to salvage components for reuse and recycling.

F. “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

G. “Divert” means to use construction or demolition debris for any purpose other than disposal in a landfill or transformation facility.

H. “Emergency”: A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss of or damage to life, health, property or public services.

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

J. "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

K. "Remodel" means any change, addition, or modification in an existing structure.

M. "Renovation" means any change, addition, or modification in an existing structure.

N. "Reuse" means further or repeated use of construction or demolition debris.

O. "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

P. "WMP review fee" means the fee for processing WMP applications as adopted by the City Council by resolution, if any.

Q. "WMP report" means the final calculation of construction and demolition debris diversion for the project as described in DMMC [23.70.050](#).

23.70.020 Construction and demolition debris diversion requirements.

Owners and builders generating any construction and demolition debris on a project (residential or commercial) must comply with the minimum requirements regarding recycling or reuse for salvage set forth in the California Green Building Standards Code as adopted by section 23.12 of the Del Mar Municipal Code, Tier I requirements for commercial projects, any applicable state law requirements, and the requirements of this section. Failure to comply with any of the terms of this chapter shall subject the project applicant to the full range of penalty and enforcement mechanisms of this chapter.

23.70.030 Submission of Waste Management Plan.

A. Waste Management Plan (WMP) Forms. Applicants for a Building Permit plan check shall complete and submit a Waste Management Plan on a City-approved form and pay a WMP review fee, if any, before a building or demolition permit may be issued. The completed WMP shall indicate all of the following:

1. Estimated weight of C&D debris, by materials type, to be generated;
2. Maximum weight of such materials that can feasibly be diverted via reuse or recycling;
3. Vendor or facility that the applicant proposes to use to collect or receive that material;
4. Estimated weight of C&D materials that will be landfilled; and
5. Total square footage of the project.

6. Indicates that the minimum required percentage set forth in DMMC 23.70.010 of all C&D debris generated by the project will be diverted.

B. Calculating Weight of Debris. In estimating the weight of materials identified in the WMP, the applicant shall use the standardized conversion rates approved by the City.

C. Deconstruction. In preparing the WMP, applicants for a building permit plan check involving the removal of all or part of an existing structure shall consider deconstruction, to the maximum extent feasible, and shall make the materials generated thereby available for salvage prior to sending to a landfill.

23.70.040 Review of Waste Management Plan.

A. Approval. Notwithstanding any other provision of this code, no Building Permit shall be issued unless the WMP has been approved. Approval shall not be required, however, where an emergency demolition, as determined by the Planning and Community Development Director, is required to protect public health or safety. The WMP shall not be approved unless it provides all of the information set forth in DMMC 23.70.030.

B. Non-approval. If the WMP is incomplete or fails to indicate that the minimum required percentage set forth in DMMC 23.70.010 of all C&D debris generated by the project will be diverted, the WMP shall be returned to the applicant marked "Denied," including a statement of reasons, and so notify the Community Development Department, which shall withhold permit issuance until the WMP is resubmitted and approved.

23.70.050 Compliance with waste management plan.

A. Documentation. Prior to final inspection, the applicant shall submit documentation to the Building Official that the diversion requirement for the project has been met. If the applicant does not submit the required documentation, the applicant may be subject to enforcement action pursuant to DMMC 23.70.070. The documentation for compliance shall include the following:

1. Copies of receipts from the vendor or facility that collected or received each material, showing the actual weight of that material.

2. A copy of the approved WMP for the project adding the actual weight of each material diverted and landfilled.

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

C. Determination of Compliance

1. Full Compliance. If the applicant has fully complied with the diversion requirement for the project, the final WMP report shall be approved.

2. Good Faith Effort to Comply. On a very limited basis, if the diversion requirement has not been achieved, the Planning and Community Development Director shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply considering the following:

- a. The availability of markets for the C&D debris landfilled;
- b. The percent of total waste diverted;
- b. The size of the project; and
- c. The documented efforts of the applicant to divert C&D debris.

If the Planning and Community Development Director determines that the applicant has made a good faith effort to comply with this chapter, the Director may approve the final WMP report.

3. Noncompliance. If the applicant has been found to have not made a good faith effort to comply with the diversion requirement applicable to the project, or if the applicant fails to submit the documentation required by subsection A of this section, then the applicant shall be subject to the enforcement provisions of DMMC 23.70.070. Any penalty assessed must be paid to the City prior to final inspection.

4. Noncompliance Notification and Appeal. Upon a determination of noncompliance, the applicant shall be notified of the WMP report findings. The notice shall be in writing and shall identify the specific area(s) of noncompliance with the WMP and inform the applicant that it has a right to a hearing to appeal the determination pursuant to DMMC 1.12.

23.70.060 Exemption.

A. The following project types are exempt from the requirements of this Chapter:

1. Projects exempted from the construction waste disposal and recycling requirements of the State Green Building Standards Code, California Code of Regulations, Title 24, Part 11 (CALGreen Code). The City's Building Department shall maintain an up to date list of exempt project types.

2. Emergency demolition projects, if the projects are required to protect public health or safety, as determined by the Planning and Community Development Director.

B. Infeasibility Exemption Application. For project types not listed in DMMC 23.70.060 A., if unique circumstances make it infeasible for a project applicant to comply with the diversion requirement, the applicant may apply for an exemption at the time that the

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

C. Granting of Exemption. The Director of Planning and Community Development shall not issue an infeasibility exemption unless the Director can make at least one of the following findings:

1. That circumstances exist that are unique to the project to the effect that compliance with the provisions of this chapter would create an unusual burden on the project that is different than that of similarly situated properties.
2. That for a specific project compliance with this chapter would result in minimal or no increase in recycled materials or reduction in waste stream.
3. That diversion of one or more substances involved in the project presents unique and burdensome obstacles and would create an especially onerous economic burden on the project unless diversion of that substance is reduced or eliminated.

If one or more of the above findings may be made for a project, the project may be exempted from compliance with this chapter or determine the maximum feasible reduced diversion rate for each material as reported by the applicant and shall indicate this rate on the WMP submitted by the applicant. A copy of the WMP shall be returned to the applicant marked "Approved for Exemption".

D. Denial of Exemption. If the Director of Planning and Community Development is unable to make any of the findings required by subsection C of this section, the applicant shall be informed in writing. The applicant shall have 30 days to resubmit a WMP form in full compliance with DMMC 23.70.020. If the applicant fails to resubmit the WMP, or if the resubmitted WMP does not comply with DMMC 23.70.030, the Director of Planning and Community Development shall deny the WMP in accordance with DMMC 23.70.030. Notwithstanding any other provision of this code, the determination of the WMP compliance officer shall be final.

23.70.070 Enforcement.

A. Criminal Action. Any applicant who violates or fails to comply with any provision of this chapter shall be guilty of a misdemeanor and subject to the enforcement provisions of provisions of DMMC 1.08.020.

B. Civil Action. The City may redress a violation of, or failure to comply with, any provision of this chapter pursuant to the provisions of DMMC 1.08.080.