

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: July 1, 2024  
Reviewed by: NA

**SUBJECT:** Public Hearing for Amendments to Albany Municipal Code Chapter 12 Section 12-11 “Construction And Demolition Debris Recycling” – First Reading

**REPORT BY:** Jeff Bond, Community Development Director

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**SUMMARY**

The action before the City Council is to take action on an ordinance to reflect that all Construction and Demolition (C&D) covered projects shall comply with State laws including SB 1383 and CALGreen, to achieve a minimum of 65% diversion rate, and any future changes to those laws.

**STAFF RECOMMENDATION**

That the Council introduce and waive first reading of Ordinance No. 2024-03, amending Section 12-11 “Construction And Demolition Debris Recycling” of the Albany Municipal Code to clarify the current diversion requirements mandated by State laws, including Senate Bill (SB) 1383 and CALGreen.

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**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared under the California Environmental Quality Act (CEQA) by CalRecycle. The activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 regulations and its program EIR. No mitigation measures identified in the EIR are applicable to the City’s enactment of this Ordinance.

In addition, the Ordinance is categorically exempt in accordance with CEQA Guidelines Section 15307 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of natural resources; and in accordance with Section 15308 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of the environment.

## **BACKGROUND**

The City originally adopted Section 12-11 of the Albany Municipal Code (AMC), Construction and Demolition Debris Recycling, in 2006, which required diversion for covered C&D projects of 100% asphalt, concrete, and similar materials, and at least 50% diversion of all other materials, unless an infeasibility exemption was granted. The threshold for covered C&D projects was established for any project with a permit valuation in excess of \$75,000 (for construction, demolition, and/or renovation), or \$25,000 for any project involving only demolition.

### **Senate Bill 1383**

In 2016, Governor Jerry Brown signed into law Senate Bill (SB) 1383, commonly referred to as the “Short-Lived Climate Pollutants Act of 2016.” SB 1383 establishes methane reductions targets to help the State of California meet its climate goals. The goal of SB 1383 is to reduce methane emissions associated with landfills, dairies and livestock, and organic waste. Final rulemaking was issued by CalRecycle in October 2020 and includes mandates for waste reduction and diversion, edible food recovery, recycled paper procurement, compost procurement, Construction & Demolition (C&D) debris recycling in accordance with CALGreen, program enforcement, recordkeeping, and other requirements (SB 1383 Regulations). These new SB 1383 regulations were finalized by CalRecycle in November 2020 and took effect in January 2022.

In July 2021, the Alameda County Waste Management Authority (StopWaste) adopted a countywide Organics Reduction and Recycling Ordinance that serves as the SB 1383 enforcement mechanism for Alameda County jurisdictions. On December 6, 2021, the Albany City Council adopted Ordinance No. 2021-11, amending Section 15-2 of the Albany Municipal Code, opting into the StopWaste ordinance.

### **CALGreen**

CALGreen is California’s state-mandated green building code. The purpose of CALGreen is to improve public health, safety, and general welfare through enhanced design and construction of buildings using concepts which reduce negative impacts and promote those principles which have a positive environmental impact and encourage sustainable construction practices. CALGreen was adopted to address the five divisions of building construction:

- Planning and design
- Energy efficiency
- Water efficiency and conservation
- Material conservation and resource efficiency
- Environmental quality

## **DISCUSSION**

Due to recent implementation of State laws including SB 1383 and updates to the CALGreen code, the City needs to update AMC Section 12-11 with Ordinance No. 2024-03, which includes the new requirement for a minimum 65% diversion rate for C&D covered projects and any future amendments to the SB 1383 and CALGreen regulations. No other substantive changes are required at this time.

The City's Building Department has already incorporated the new requirements into their processes for C&D project approval and recordkeeping as required by SB 1383, as of 2020 when SB 1383 was implemented.

In 2023, the City contracted the consulting firm R3 Consulting Group, Inc. (Consultant) to assist with SB 1383 implementation and compliance. As part of this project, the Consultant conducted a gap analysis which identified that the City's Municipal Code needed to be updated for the C&D diversion requirements. The Consultant drafted the language needed for the Section 12-11 update, included as Attachment 1 – Ordinance No. 2024-03.

## **FINANCIAL CONSIDERATIONS**

There are no anticipated costs associated with this Municipal Code update. The City is already implementing the requirements of SB 1383 and CALGreen for C&D covered projects. Thus, this is primarily an administrative item for aligning the City's Municipal Code provisions to meet State requirements and be consistent with each other.

## **NEXT STEPS**

After the second reading, if Ordinance No. 2024-xx is adopted by the Council, staff will update Section 12-11 of the City's Municipal Code and bring the City into full compliance with the requirements of SB 1383 and CALGreen, as currently written and for any future amendments to those Codes.

## **Attachments**

1. Ordinance No. 2024-03

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**ORDINANCE NO. 2024-03**

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING  
ALBANY MUNICIPAL CODE CHAPTER 12, SECTION 12-11  
“CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING”  
TO CLARIFY THE CURRENT DIVERSION REQUIREMENTS MANDATED  
BY STATE LAWS, INCLUDING SENATE BILL 1383 AND CALGREEN**

**WHEREAS**, the California Integrated Waste Management Act of 1989, commonly referred to as Assembly Bill 939 (AB 939), requires each local jurisdiction in the State to meet a 50 percent diversion rate; and

**WHEREAS**, the diversion and recycling of recyclable materials will assist the City of Albany to achieve these state-mandated goals and help postpone the need for new landfill capacity; and

**WHEREAS**, reduction, reuse and recycling of Construction and Demolition Debris (C&D Debris) is essential to further the City’s efforts to reduce waste and comply with AB 939 goals; and

**WHEREAS**, reduction, reuse and recycling of C&D Debris is essential to further the City’s efforts to reduce waste and comply with the California Green Building Standards Code (CALGreen) (Cal. Code Regs. Title 24) as revised from time to time; and

**WHEREAS**, reduction, reuse and recycling of C&D Debris reduces the amount of C&D Debris Transported for Disposal and is cost effective; and

**WHEREAS**, reduction, reuse, and recycling of C&D Debris reduces the greenhouse gas emissions associated with landfilling, and decreases reliance on imported lumber; and

**WHEREAS**, reduction, reuse and recycling of old growth redwood lumber preserves a natural resource that currently exists only in protected forests that are less than 5% of original redwood forests; and

1           **WHEREAS**, the City finds that, except in unusual circumstances, it is feasible to recover  
2 via reuse, recycling, or composting all recoverable nonhazardous C&D Debris from all Projects;  
3  
4 and

5           **WHEREAS**, the California Legislature adopted Senate Bill (SB) 1383, the Short-Lived  
6 Climate Pollutant Reduction Act of 2016 which added Sections 39730.5, 39730.6, 39730.7, and  
7  
8 39730.8 to the State of California Health and Safety Code and added Chapter 13. 1 (commencing  
9 with Section 42652) to Part 3 of Division 30 of the State of California Public Resources Code,  
10  
11 establishing methane emissions reduction targets in a Statewide effort to reduce emissions of  
12 short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to  
13 time; and

14           **WHEREAS**, the Office of Administrative Law approved regulations in 2020 (14 CCR,  
15 Division 7, Chapter 12, and amended portions of regulations of 14 CCR, 24 CCR and 27 CCR)  
16 (SB 1383 Regulations), which require cities, counties, and special districts providing solid waste  
17 collection services to adopt and enforce an ordinance, or other enforceable mechanism, that  
18 requires compliance with Sections 4.408.1 and 5.408.1 of the California Green Building  
19 Standards Code, Part 11, Title 24 of the California Code of Regulations (CCR) which relate to  
20 residential and non-residential construction waste management (CALGreen SB 1383 Baseline  
21 Requirements); and  
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23           **WHEREAS**, the CALGreen SB 1383 Baseline Requirements mandate recycling or  
24 reclaiming for reuse of nonhazardous C&D Debris per Sections 4.408.1 and 5.408.1 of the  
25 California Green Building Standards Code, Title 24 of the CCR, Part 11; and

26           **WHEREAS**, this Ordinance is adopted pursuant to CalRecycle’s SB 1383 Regulations.  
27 The SB 1383 Regulations were the subject of a program environmental impact report (EIR)  
28

1 prepared under the California Environmental Quality Act (CEQA) by CalRecycle. The activities  
2 to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations  
3 and its program EIR. No mitigation measures identified in the EIR are applicable to the City's  
4 enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or  
5 supplemental EIR, as described in CEQA, at Public Resources Code Section 21166, and its  
6 regulations (CEQA Guidelines) at 14 CCR Sections 15162 and 15163, have occurred. The  
7 program EIR therefore adequately analyzes any potential environmental effects of the  
8 Ordinance, and no additional environmental review is required; and  
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12           **WHEREAS**, on a separate and independent basis, this Ordinance is categorically exempt  
13 in accordance with Section 15307 as an action taken by a regulatory agency as authorized by  
14 California law to assure maintenance or protection of natural resources; and in accordance with  
15 Section 15308 as an action taken by a regulatory agency as authorized by California law to assure  
16 maintenance or protection of the environment.  
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1           NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS  
2 FOLLOWS:  
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5           SECTION 1: CHAPTER 12, ARTICLE 11 OF THE ALBANY MUNICIPAL  
6 CODE, ENTITLED “CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING,”  
7 IS HEREBY AMENDED TO READ AS FOLLOWS:  
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9           **“12-11 CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING**  
10 **REQUIREMENTS**  
11

12           **§ 12-11.01 Title.**

13           The provisions of this Article, composed of Section 12-11.1 through Section 12-11.7,  
14 inclusive, shall be known as the City of Albany “Construction and Demolition Debris Recycling  
15 Requirements.

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17           **§ 12-11.1 Purpose.**

18           This section is adopted in order to supplement the provisions of the California Integrated  
19 Waste Management Act of 1989 which requires that each local jurisdiction in the State divert  
20 fifty (50%) percent of discarded materials from landfills and aid in compliance with the Alameda  
21 County Waste Reduction and Recycling Act of 1990 (Measure D), and to comply with the  
22 requirements of CALGreen Sections 4.408.1 and 5.408.1, as well as the SB 1383 regulations set  
23 forth in California Code of Regulations (“CCR”) Title 14, Section 18989.1(a)(2) (the Short-lived  
24 Climate Pollutant Reduction Act of 2016). Applicants must comply with the California Green  
25 Building Standards Code (“CALGreen”) requirements (CALGreen, Sections 4.408 and 5.408)  
26 and any future changes to that Code. The requirements of CALGreen and the SB 1383  
27 regulations include a minimum of 65% diversion rate for all covered Construction and  
28 Demolition (“C&D”) Projects, with Project thresholds determined by the City, or as amended by

1 any future changes to that Code. These requirements shall apply to affected projects as specified  
2 in this section.

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4 These regulations require the City to maximize the Recovery of C&D Debris through  
5 commercially viable options and by requiring all Deconstruction, Demolition, and Construction  
6 Projects to comply with the City’s requirements. The intent of these provisions is to Recover all  
7 Recoverable amounts of C&D Debris and minimize C&D Debris Disposed. Applicants for  
8 Projects are strongly encouraged to prioritize Deconstruction, Reclaim, Reuse, Recycling,  
9 Composting, and non-Disposal Recovery for all C&D Debris generated by the Project. The City  
10 intends for the maximum amount of C&D Debris to be Recovered and returned into the economic  
11 mainstream, thereby conserving natural resources and stimulating markets for Recoverable  
12 materials. The City Manager or their designee is authorized to establish guidelines to implement  
13 the requirements of this Chapter, which may be amended from time to time.

14  
15 **§ 12-11.2 Definitions (A-Z).**

16 As used in this section:

17 APPLICANT — Shall mean any individual, firm, limited liability company, association,  
18 partnership, political subdivision, government agency, municipality, industry, public or private  
19 corporation, or any other entity whatsoever who applies to the City for the applicable permits to  
20 undertake any construction, demolition, or renovation project within the City.

21 BUILDING — Shall mean construction, alteration, movement, enlargement, replacement,  
22 repair, use and occupancy, location, maintenance, and removal of every structure or any  
23 appurtenances connected or attached to such buildings or structures.

24 BUILDING OFFICIAL — Shall mean the designated staff person(s) authorized and responsible  
25 for implementing this section.

26 CONSTRUCTION — Shall mean the building of any facility or structure or any portion thereof  
27 including any tenant improvements to an existing facility or structure. Construction refers to  
28 Standard Industrial Classification (“SIC”) Codes 1521 through 1794, 1796, and 1799.



1 CONSTRUCTION AND DEMOLITION DEBRIS (C&D Debris) — Shall mean discarded  
2 materials, packaging, and rubble resulting from construction, renovation, or demolition  
3 operations on any pavements, houses, commercial buildings, or other structures.

4 CONTRACTOR — Shall mean any Person or entity holding, or required to hold, a contractor's  
5 license of any type under the laws of the State of California, or who performs (whether as  
6 contractor, subcontractor, owner-builder, or otherwise) any Deconstruction, Demolition, and  
7 Construction in association with a Project.

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9 CONVERSION RATE — Shall mean the rate set forth in the standardized Conversion Rate  
10 Table approved by the City pursuant to this section for use in estimating the volume or weight  
11 of materials identified in a debris recycling statement.

12 COVERED PROJECT — Shall have the meaning set forth in subsection 12-11.3a of this section.

13 DEBRIS RECYCLING STATEMENT — Shall mean the form completed and approved  
14 pursuant to subsection 12-11.4 of this section, submitted by the applicant for any covered or  
15 noncovered Project.

16 DECONSTRUCTION — Shall mean the process of systematically dismantling a structure, or a  
17 portion thereof, to maximize the potential to Reclaim Reusable C&D Debris and minimize the  
18 amount of C&D Debris that are Disposed. Deconstruction includes adherence to the City's health  
19 and safety protocols for such activities.

20 DEMOLITION — Shall mean decimating, razing, ruining, tearing down or wrecking of any  
21 facility, structure, pavement, or building, whether in whole or in part, whether interior or exterior.  
22 Demolition refers to SIC Code 1795.

23 DISPOSAL or DISPOSED — Shall mean the final disposition of C&D Debris to a Landfill.

24 DIVERSION REQUIREMENT — Shall mean the diversion of one hundred (100%) percent of  
25 the asphalt, concrete and similar material and at least ~~fifty~~ sixty-five (65%) percent, by weight,  
26 of all other ~~construction and demolition debris~~ C&D Debris generated by the project, unless the  
27 applicant has been granted an infeasibility exemption pursuant to subsection 12-11.4 of this  
28 section, in which case the diversion requirement shall be the diversion of one hundred (100%)  
percent of the asphalt, concrete and similar material, and the maximum feasible diversion of all

1 other ~~construction and demolition debris~~ C&D Debris generated by the project, as established  
2 by the Building Official for the project.

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4 DIVERT — Shall mean to use material for any purpose other than disposal in a landfill.

5 FRANCHISE AGREEMENT — Shall mean the agreement between the City and its contractor  
6 pursuant to California Public Resources Code section 40059(a) for solid waste, recyclable  
7 materials, and organic materials services.

8 HEARING OFFICER — Shall have the meaning set forth in subsection 12-11.6 of this section.

9 LANDFILL — Shall mean a facility for the Disposal of non-Recoverable waste defined in CCR  
10 Title 27.

11 NONCOVERED PROJECT — Shall have the meaning set forth in subsection 12-11.3b of this  
12 section.

13 PERFORMANCE SECURITY — Shall mean any performance bond, surety bond, cashier's  
14 check, letter of credit, or certificate of deposit submitted to the City pursuant to subsection 12-  
15 11.4d of this section.

16 PERMIT — Shall mean a Deconstruction or Demolition and/or Construction permit issued by  
17 the City's Building Department.

18 PROJECT — Shall mean activity which requires an application for a building permit and/or a  
19 demolition permit or any similar permit from the City.

20 RECLAIM — Shall mean the controlled removal of C&D Materials from a Project for the  
21 purpose of Reuse or Recycling.

22 RECYCLING — Shall mean the process of collecting, delivering, sorting, cleansing, treating,  
23 and reconstituting materials that would otherwise become solid waste, and returning them to the  
24 economic mainstream in the form of raw material for new, reused, or reconstituted products  
25 which meet the quality standards necessary to be used in the marketplace.

26 RENOVATIONS — Shall mean the change, addition, or modification in an existing structure.

27 REUSE — Shall mean further or repeated use of construction or demolition debris.  
28

1 SALVAGE — Shall mean the controlled removal of construction or demolition debris from a  
2 permitted building or demolition site for the purpose of recycling, reuse, or storage for later  
3 recycling or reuse.  
4

5 SUMMARY REPORT — Shall mean a form completed pursuant to subsection 12-11.5b of this  
6 section, summarizing the diversion of ~~construction and demolition debris~~ C&D Debris generated  
7 by a covered project.  
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9 **§ 12-11.3 Diversion of Construction and Demolition Debris.**

10 a. Thresholds for Covered Projects. The provisions of this section shall apply to all  
11 construction, demolition, and/or renovation projects within the City with a permit  
12 valuation in excess of seventy-five thousand (\$75,000.00) dollars as determined by the  
13 City's Building Official or designee. The seventy-five thousand (\$75,000.00) dollars  
14 threshold shall be calculated as the total or projected costs of construction, demolition,  
15 and/or renovation. Notwithstanding the foregoing, covered projects shall include any  
16 project involving only demolition with a permit valuation in excess of twenty-five  
17 thousand (\$25,000.00) dollars.

18 b. Noncovered Projects. Applicants for projects that do not meet the valuation threshold  
19 requirement set forth in subsection 12-11.3a shall be encouraged to meet the diversion  
20 requirement standards set forth in this section.

21 c. Compliance Gas a Condition of Approval. Compliance with the provisions of this section  
22 shall be included as a condition of approval on all building and/or demolition permits  
23 issued for covered Projects. The City has entered into an exclusive Franchise Agreement,  
24 which provides ~~construction and demolition debris~~ C&D Debris collection services for  
25 residential and commercial customers. Applicants may comply with this chapter in one  
(1) of two (2) ways:

26 1. Applicants may use the ~~construction and demolition debris~~ C&D Debris  
27 collection services of the City's contractor. As provided in the Franchise  
28 Agreement, the City's contractor must provide ~~construction and demolition debris~~

1            C&D Debris collection upon the request of residential and commercial  
2 customers; or

3  
4            2. Applicants may elect to not use the City's contractor if they meet one of the  
5 exceptions to the exclusivity of the Franchise Agreement with regard to  
6 ~~construction and demolition debris~~ C&D Debris for:

7                    (a) Commodities;

8                    (b) Materials hauled by owner or occupant, or its contractor; or

9                    (c) Donated materials.

10            d. Applicants must also comply with the CALGreen requirements and any future changes  
11 to that Code.

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13 **§ 12-11.4 Debris Recycling Statements.**

14            a. Submission of Debris Recycling Statements. Applicants for building and/or demolition  
15 permits involving covered projects shall complete and submit a debris recycling  
16 statement (DRS) on a form provided by the City. The completed DRS form shall indicate  
17 whether or not the applicant intends to use the City's contractor for its ~~construction and~~  
18 ~~demolition debris~~ C&D Debris collection services.

19            b. Applicants shall ensure, for the life of the Project, that all C&D Debris Recovered or  
20 Disposed are measured, recorded, and documented by weight or volume using the most  
21 accurate method of measurement available. To the extent practicable, all C&D Debris  
22 shall be weighed using scales that are compliant with all regulatory requirements for  
23 accuracy and maintenance. For C&D Debris for which weighing is not possible due to  
24 lack of scales or not practical due to Deconstruction and/or Reuse methods or other  
25 considerations, a volumetric measurement may be used, or approximate weights may be  
26 applied to detailed inventories. Applicants shall convert volumetric measurements to  
27 weight using standardized conversion factors approved by the City. Applicants shall keep  
28 all documentation of all Recovery and/or Disposal of all C&D Debris generated by  
Project.

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c. Selection of City's Contractor. If the applicant's DRS form indicates that the City's contractor will provide ~~construction and demolition debris~~ C&D Debris collection services, either because the applicant does not fall within one of the exceptions to the exclusive franchise or because the applicant falls within such an exception but chooses to have ~~construction and demolition debris~~ C&D Debris collected by the City's contractor, the applicant shall make arrangements directly with the City's contractor for the collection of ~~construction and demolition debris~~ C&D Debris. Once the applicant contacts the City's contractor for ~~construction and demolition debris~~ C&D Debris collection services and makes a good faith effort to provide ~~construction and demolition debris~~ C&D Debris for collection by the City's contractor, the applicant will be deemed to have complied with this section so long as the applicant submits a Summary Report pursuant to subsection 12-11.5 of this section.

d. Election to Not Use the City's Contractor. Applicants that indicate on their DRS form that they will not use the City's contractor for ~~construction and demolition debris~~ C&D Debris collection must include and indicate all of the following on the completed DRS form:

1. The specific exception of the Franchise Agreement under which the applicant may refuse ~~construction and demolition debris~~ C&D Debris collection services by the City's contractor;
2. The estimated volume or weight of the ~~construction and demolition debris~~ C&D Debris, by type of material generated;
3. The estimated volume or weight of materials, by material type, that can feasibly be diverted via reuse or recycling;
4. The vendor or facility that the applicant proposes to use to collect and/or receive the diverted material; and,
5. The estimated volume or weight of materials that will be deposited in a landfill.

1 For the purposes of this section, the applicant shall use standardized conversion rates,  
2 approved by the City, to estimate the volume and weight of materials identified in the  
3 DRS.  
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5 Applicants that elect not to use the City's contractor may not rely on one of the above-  
6 described exceptions for waste generated by human activity other than construction and  
7 demolition. Applicant shall arrange for the collection of such waste on a weekly basis by  
8 the City's contractor.

9 e. Performance Security. Applicants for all covered projects that have elected not to use the  
10 City's contractor shall submit a performance security with the DRS. The amount of the  
11 performance security shall be calculated as the lesser of three (3%) percent of total project  
12 cost or ten thousand (\$10,000.00) dollars. Acceptable forms of performance security  
13 include the following: performance bonds; surety bonds; cashier's checks; letters of credit  
14 drawn on an established California bank; and certificates of deposit. The City's Building  
15 Official may waive the performance security if the total security required pursuant to this  
16 subsection would be fifty (\$50.00) dollars or less.

17 f. Review of Debris Recycling Statements.

18 1. Time frame for Review. The Building Official will review the DRS and advise  
19 the applicant within five (5) working days of receipt of the DRS of the decision  
20 regarding approval or non approval.

21 2. Approval of Debris Recycling Statement. No building, demolition or similar  
22 permit shall be issued unless and until the Building Official has approved the  
23 DRS for the project. A DRS shall only be approved if the Building Official  
24 determines that the following conditions have been met:

- 25 (a) The DRS provides all of the information required by this section; and,  
26 (b) The DRS form indicates that the applicant elects to use the services of the  
27 City's contractor for ~~construction and demolition debris~~ C&D Debris  
28 collection; or

1 (c) The DRS form indicates that the applicant elects not to use the City's  
2 contractor; and

3 (1) The applicant has submitted an appropriate performance security  
4 in compliance with this subsection; and

5 (2) The DRS indicates that one hundred (100%) percent of the asphalt,  
6 concrete, and similar material, and at least fifty (50%) percent, by  
7 weight, of all other ~~construction and demolition debris~~ C&D  
8 Debris generated by the project as a whole will be diverted; or

9 (3) The DRS indicates that one hundred (100%) percent of the asphalt,  
10 concrete, and similar material will be diverted, and has obtained  
11 an exemption pursuant to paragraph 5(d) below; or

12 (4) The DRS indicates that the project will generate a negligible  
13 amount of ~~construction and demolition debris~~ C&D Debris. The  
14 determination of whether the project will generate a negligible  
15 amount of ~~construction and demolition debris~~ C&D Debris shall  
16 be at the discretion of the Building Official. If the Building  
17 Official determines that the applicant has met the conditions set  
18 forth above, the DRS shall be marked "Approved". A copy of the  
19 approved DRS shall be returned to the applicant.

20 3. Non approval of Debris Recycling Statement. If the Building Official determines  
21 that the applicant has failed to meet one (1) or more of the conditions set forth  
22 above, the DRS will be returned to the applicant requesting full documentation of  
23 the reasons that the requirements of this section cannot be met, or returned to the  
24 applicant marked "Denied". If the DRS is returned marked "Denied", it shall be  
25 accompanied by a statement of reasons for denial. No building permit shall be  
26 issued for a project until the submitted DRS has been approved by the Building  
27 Official.  
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4. Emergency Demolition. No DRS is required where an authorized official of the City has made a determination that immediate demolition is required to protect the public health or safety from imminent peril.

5. Infeasibility Exception.

(a) Application of this Section: This subsection 12-11.4fe applies only to applicants for covered projects that have elected not to use the City's contractor.

(b) DRS Form: If an applicant experiences unique circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the DRS required under subsection 12-11.4. The applicant shall indicate on the DRS the maximum rate of diversion and/or quantity of material 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.

(c) Meeting with Building Official: The City Building 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 City, the Building Official may request that staff from the Alameda County Waste Management Authority attend this meeting. Based on the information supplied by the applicant and, if applicable, Alameda County Waste Management Authority staff, the Building Official shall determine whether it is possible for the applicant to meet the diversion requirement.

(d) Granting of Exemption: If the Building Official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, the Building Official shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the



1 DRS submitted by the applicant. The Building Official shall return a copy  
2 of the DRS to the applicant marked "Approved for Infeasibility  
3 Exemption" and shall notify the Building Department that the DRS has  
4 been approved.  
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- 6 (e) Denial of Exemption: If the Building Official determines that it is possible  
7 for the applicant to meet the diversion requirement, he or she shall so  
8 inform the applicant in writing. The applicant shall have thirty (30) days  
9 to resubmit a DRS form in full compliance with subsection 12-11.4 of this  
10 section. If the applicant fails to resubmit the DRS, or if the resubmitted  
11 DRS does not comply with subsection 20.68.040 of the Albany Municipal  
12 Code, the Building Official shall deny the DRS in accordance with  
13 subsection 12-11.4e of the Albany Municipal Code.  
14

15 **§ 12-11.5 Compliance.**

- 16 a. Weighing of ~~construction and demolition debris~~ C&D Debris. Applicants electing not to  
17 use the City's contractor shall make every reasonable effort to assure that all ~~construction~~  
18 ~~and demolition debris~~ C&D Debris diverted and/or deposited in a landfill is measured  
19 and recorded using the most accurate method of measurement available. To the extent  
20 possible, all ~~construction and demolition debris~~ C&D Debris shall be weighed by  
21 measurement on scales. Such scales shall be in compliance with all regulatory  
22 requirements for accuracy and maintenance. A volumetric measurement shall be used for  
23 all ~~construction and demolition debris~~ C&D Debris for which weighing is not practical  
24 due to small size or other considerations. Volumetric measurements shall be converted  
25 to weight by using the conversion rates approved by the City for this purpose.
- 26 b. Determination of Compliance. Within thirty (30) days after the completion of any  
27 covered project, the applicant shall complete and submit a summary report on a form  
28 provided by the City. Applicants may demonstrate compliance with this section in one  
(1) of two (2) ways:

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1. Applicants may demonstrate compliance by submitting a summary report indicating that it used the services of the City's contractor for ~~construction and demolition debris~~ C&D Debris collection; or

2. Applicants that did not use the City's contractor for ~~construction and demolition debris~~ C&D Debris collection shall so indicate on the Summary Report and include supporting documentation such as receipts and weights tags for ~~construction and demolition debris~~ C&D Debris generated by the covered project. The Building Official shall review the Summary Report and its supporting documentation to determine whether the applicant has achieved the diversion requirement. Such determination shall be based upon the requirements of this section and the following guidelines:

(a) Full Compliance: The applicant shall be found to have fully complied with this section if the Building Official determines that the applicant has complied with the diversion requirement applicable to the project. If the Building Official determines that the Applicant has fully complied with the Diversion Requirement applicable to the Project, he or she shall cause the full amount of the Performance Security to be released to the Applicant.

(b) Good Faith Effort to Comply: If the Building Official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with this section. In making this determination, consideration may be given to information submitted by the applicant, including but not limited to the availability of markets for the ~~construction and demolition debris~~ C&D Debris that was not diverted, the size and nature of the project, and the documented efforts of applicant to divert ~~construction and demolition debris~~ C&D Debris and the barriers encountered. If the Building Official determines that the applicant has made a good faith effort to comply with the diversion requirement and documentation provisions



1 conditions, the economic feasibility of compliance and the availability of local recycling  
2 facilities.  
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5 **§ 12-11.6 Appeals.**

6 Any applicant affected by any decision, action, or determination made by the Building Official  
7 regarding this section may file with the City Clerk a written appeal within ten (10) days of such  
8 decision, action, or determination, setting forth in detail the facts supporting the applicant's appeal.  
9 The City Manager shall appoint a Hearing Officer who shall hear the appeal within thirty (30) days  
10 from the date of filing. The Hearing Officer shall render a written decision within fourteen (14) days  
11 of the close of the hearing. The Hearing Officer's determination shall be final.  
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13 **§ 12-11.7 Enforcement.**

14 Notwithstanding any other provision of this section, violations of this section may be enforced in  
15 the following manner: (1) Pursuant to Chapter 1 of this Code; (2) by a stop work order issued by  
16 the Building Official where work on the project has already commenced; or (3) in any other manner  
17 provided by law.”

18 **SECTION 2. SEVERABILITY.**

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20 If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason  
21 held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such  
22 decision shall not affect the validity of the remaining portions of the Chapter. The City Council  
23 hereby declares that it would have passed this Ordinance and each section, subsection, clause, or  
24 phrase thereof irrespective of the fact that one or more other sections, subsections, clauses, or  
25 phrases may be declared invalid or unconstitutional.  
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1 **SECTION 3: PUBLICATION AND EFFECTIVE DATE.**

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4 This Ordinance shall be posted at three public places within the City of Albany and shall  
5 become effective thirty days after the date of its posting.

6 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on  
7 the 1st day of July, 2024, by the following vote:

8 AYES:

9 NOES:

10 ABSENT:

11 ABSTAIN:

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14 JOHN MIKI, MAYOR  
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