

1 (SEAL)

2

3 ATTEST:

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8 _____
[Typed name], [City] [Board] Clerk

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13 APPROVED AS TO FORM:

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[Typed name], [City] [County] Attorney

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I, _____, [City Clerk] [Board Secretary] of the
[City of] [County of] _____, Iowa, do hereby certify that the
foregoing ORDINANCE was passed and approved by the [City Council of the City of] [Board of
Supervisors of the County of] _____, Iowa, on the
_____ day of _____, 200____, and was published in the
_____, a newspaper of general
circulation in the said [City] [County] of _____ on the
_____ day of _____, 200____.

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Dated this _____ day of _____, 200____.

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33 _____
[City Clerk] [Board Secretary]

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1 TITLE _____, CHAPTER _____, ARTICLE _____, CODE OF
2 ORDINANCES, [CITY] [COUNTY] OF _____,
3 “ORDINANCE REQUIRING **RECYCLING** OF CONSTRUCTION AND DEMOLITION
4 WASTE CREATED BY DEMOLITION OF A BUILDING”

5
6 Section 1. Findings

- 7 a. On the _____ day of _____, _____, the [City
8 of] [County of] _____ (hereinafter [“city”] [“county”])
9 became a member of the _____ Solid Waste Agency
10 (“Agency”), operating the sanitary disposal project known as
11 _____”the
12 facility” pursuant to a comprehensive plan known as
13 _____ (“the plan”).
- 14 b. Pursuant to the provisions of §455B.301A, Iowa Code, it is the solid waste
15 disposal public policy of the State of Iowa to promote, in descending
16 hierarchy, “...volume reduction at the source, ...recycling and
17 reuse...[and]... other approved techniques of solid waste management
18 including, but not limited to, combustion with energy recovery,
19 combustion for waste disposal, and disposal in sanitary landfills.”
- 20 c. Pursuant to the provisions of §455B.306, Iowa Code, “All cities and
21 counties shall ... establish and implement a comprehensive solid waste
22 reduction program for its residents.”
- 23 d. Pursuant to the provisions of §455B.310, the tonnage fee imposed on the
24 operator of a sanitary landfill by the State of Iowa may be reduced in
25 effect by successful solid waste reduction efforts, and may be eliminated
26 altogether with respect to “Solid waste disposal facilities with special
27 provisions which limit the site to disposal of construction and demolition
28 waste... .”
- 29 e. Construction and demolition waste constitutes a significant portion of the
30 total quantity of solid waste disposed of at the facility, consumes an
31 inordinate amount of space, resists compaction, and constitutes increased
32 risk to site and worker safety.
- 33 f. Proper management of construction and demolition waste created by the
34 demolition of buildings:
- 35 1) help the state and [city] [county] achieve solid waste reduction,
 - 36 2) conserve facility resources,
 - 37 3) extend the useful life of the facility,
 - 38 4) improve site and worker safety, and
 - 39 5) minimize tonnage fees payable to the State of Iowa, thus reducing
40 the costs of facility operational costs and moderating fees charged
41 for use of the facility.
- 42 g. Volume reduction at the source may in some respects add modestly to the
43 cost of demolition of a building and in other respects may make possible
44 some cost recovery and cost reduction; notwithstanding these
45 considerations, it is necessary in order to protect the public health, safety
46 and welfare that this ordinance be adopted.

- 1 h. The [city] [county] will incur significant costs in the administration of this
- 2 ordinance, which costs must be recovered by a reasonable application and
- 3 processing fee.
- 4 i. It is appropriate to require owners or contractors engaged by owners for
- 5 the purpose of relocating a building to make a performance security
- 6 deposit with the [city] [county] reasonably calculated to offset the adverse
- 7 consequences for facility resources of the applicant's failure, in whole or
- 8 in part, to fulfill the applicant's waste management plan. In the event
- 9 applicant fulfills applicant's waste management plan in whole or in part,
- 10 all or an appropriate portion of the performance security deposit should be
- 11 rebated in recognition of all or part of the adverse consequences for
- 12 facility resources avoided by such fulfillment.
- 13 j. Construction and demolition waste remaining after satisfactory diversion
- 14 should be subject to reduced fees and charges at the facility.

15 Section 2. Definitions. For purposes of this ordinance, the following definitions shall apply:

- 16 a. "Applicant" means any person, firm, limited liability company,
- 17 association, partnership, political subdivision, government agency,
- 18 municipality, industry, public or private corporation, or any other entity
- 19 whatsoever who applies to the [city] [county] for a building demolition
- 20 permit to demolish a building within the [city] [county].
- 21 b. "Building" for purposes of this ordinance means a structure for residential,
- 22 commercial or agricultural use with at least 1000 square feet¹ of interior
- 23 space on any single level or floor, which is demolished.
- 24 c. "Building demolition permit" means a permit issued by the [city] [county]
- 25 in accordance with this ordinance upon payment of the required fee and
- 26 deposit; no action shall be taken to demolish a building prior to receipt of
- 27 a building demolition permit.
- 28 d. "Construction and demolition waste" (hereinafter referred to as "C&DW")
- 29 means waste building materials including wood, metals and rubble which
- 30 result from construction, demolition, deconstruction or relocation of
- 31 structures. Such waste shall also include trees cleared from a project site.
- 32 Consistent with the legal duty of every waste generator under state and
- 33 federal law to identify, specially handle and dispose of hazardous and
- 34 special waste (including but not limited to asbestos and lead-based paint),
- 35 C&DW shall not contain hazardous and special waste (including but not
- 36 limited to asbestos and lead-based paint) in quantities or conditions subject
- 37 to special handling and safety regulations under state and federal laws. To
- 38 be deemed C&DW, material shall be certified as such by the applicant in
- 39 writing in the following form: "I hereby certify that the C&DW subject to
- 40 the permit applied for does not contain hazardous and special waste
- 41 (including but not limited to asbestos and lead-based paint) in quantities or
- 42 conditions subject to special handling and safety regulations under state
- 43 and federal laws." Certified C&DW remaining after satisfactory diversion

¹ This figure must be established based on local considerations, particularly the public or private resources available in the community for recycling.

1 under the provisions of this ordinance shall be subject to such reduced fees
2 and charges at the facility, if any, as the facility may determine.

- 3 e. “C&DW management application and processing fee” (hereinafter
4 referred to as “C&DWMAP fee”)² means the fee established from time to
5 time by the [city] [county] in an amount reasonably calculated to recover
6 the costs of administration of this ordinance. The C&DWMAP fee
7 schedule established by the [city] [county] may reflect a sliding scale
8 based on the weight or volume of C&DW reflected in the applicant's
9 waste management plan.³
- 10 f. “Contractor” means any person or entity holding, or required to hold, a
11 contractor's license of any type under the laws of the state, city or county,
12 or who performs (whether as contractor, subcontractor, owner-builder, or
13 otherwise) any relocation, construction, deconstruction, demolition,
14 remodeling, renovation, or landscaping service relating to buildings or
15 accessory structures.
- 16 g. “Conversion rate” means the rate set forth in the standardized Conversion
17 Rate Table approved by the [city] [county] pursuant to this ordinance for
18 use in estimating the volume or weight of materials identified in a waste
19 management plan.⁴
- 20 h. “Covered project” shall have the meaning set forth in Section 3 of this
21 ordinance.
- 22 i. “Demolition” or “demolish” means the razing of all or part of a building
23 on its existing site.
- 24 j. “Divert” means to salvage or recycle C&DW. Disposal of C&DW at a
25 solid waste disposal facility with special provisions which limit the site to
26 disposal of construction and demolition waste shall not constitute
27 diversion.
- 28 k. “Diversion requirement” means the diversion of at least fifty (50)
29 percent⁵ of the total C&DW generated by a project via salvage or
30 recycling, unless the applicant has been granted an unfeasibility exemption
31 pursuant to Section 8 of this ordinance, in which case the diversion
32 requirement shall be the maximum feasible diversion rate established by
33 the WMP compliance official for the project.

² The C&DWMAP fee (and the performance security deposit hereinafter referred to) is authorized (for cities) by §384.84 as a “solid waste disposal” rate or charge, and must be established in a sufficient amount to help “...produce gross revenues at least sufficient to pay the expenses of operation and maintenance...” of the facility. Like all such fees and charges, after adoption it must be “...published in the same manner as an ordinance.” The C&DWMAP fee (and the performance security deposit hereinafter referred to) is authorized (for counties) by §331.465(1)(a). *See also* §331,461(2)(b). If the city or county adopting this ordinance is not the operator of the facility, but participates only as a member of the 28E entity that operates the facility, provision should be made to properly allocate C&DWMAP fee proceeds between the city or county collecting the fee and the facility depending upon the respective administrative burdens of each in the administration of the ordinance. As will all such fees and charges, the C&DWMAP fee and PSD should be based on reasonable cost accounting, and periodically adjusted to account for inflation or other factors.

³ A sliding scale is appropriate for the reason that more administrative supervision is involved for large projects than for small projects.

⁴ These standards must be developed on a rational and practical basis.

⁵ See footnote 1.

- 1 l. “Noncovered project” shall have the meaning set forth in Section 3 of this
- 2 ordinance.
- 3 m. “Performance security deposit” (hereinafter “PSD” means a sum of money
- 4 to be deposited with the [city] [county], by cash, certified check or money
- 5 order, in an amount established from time to time by the [city] [county]
- 6 reasonably calculated to offset the adverse consequences for facility
- 7 resources of the applicant's failure, in whole or in part, to fulfill the
- 8 applicant's waste management plan as defined below. The PSD fee
- 9 schedule(s) established by the [city] [county] may reflect a sliding scale
- 10 based on the weigh or volume of C&DW reflected in the applicant's waste
- 11 management plan. PSD schedules for covered projects and noncovered
- 12 projects need not be the same. The PSD shall be in addition to the
- 13 C&DWMAP fee any other fees associated with demolition of a building,
- 14 and shall be paid by the applicant prior to commencement of any activity
- 15 associated with demolition of a building. Upon the effective date of this
- 16 ordinance, the PSD shall be \$10.00⁶ per thousand pounds, or the
- 17 equivalent volume, of C&DW resulting from the building demolition.
- 18 n. “Project” means any activity associated with the demolition of a building.
- 19 o. “Recycling” means the process of collecting, sorting, cleansing, treating,
- 20 and reconstituting materials that would otherwise become solid waste, and
- 21 returning them to the economic mainstream in the form of raw material for
- 22 new, reused, or reconstituted products which meet the quality standards
- 23 necessary to be used in the marketplace.
- 24 p. “Reuse” means further or repeated use of C&DW,
- 25 q. “Waste management plan” (hereinafter “WMP”) means a completed
- 26 WMP form, approved by the [city] [county] for the purpose of compliance
- 27 with this ordinance, submitted by the applicant for any covered or
- 28 noncovered project.
- 29 r. “Salvage” means the controlled removal of C&DD from a permitted
- 30 building or demolition site for the purpose of recycling, reuse, or storage
- 31 for later recycling or reuse.
- 32 s. “WMP compliance official” means the designated [facility] [city] [county]
- 33 staff person(s) authorized and responsible for implementing this
- 34 ordinance.⁷

35 Section 3. Threshold for covered projects.

- 36 a. All projects are subject to the payment of a PSD and C&DWMAP fee and
- 37 the filing of a WMP. “Non-covered projects” shall be subject only to
- 38 provisions of this ordinance specifically made applicable to them.
- 39 “Covered projects” shall be subject to all provisions of this ordinance.
- 40 b. “Covered projects” are:

⁶ See footnote 1.

⁷ The identity of the designated WMP compliance official will vary from jurisdiction to jurisdiction depending on individual circumstances. The position could be filled by the director or an employee of the facility, the building official of a city or county, or some other officer of a city or county. In any event, the activities of the WMP compliance official must be coordinated with the activities of the city or county office that issues construction, building or demolition permits.

- 1) All building demolition projects within the [city] [county] producing 1,000⁸ pounds or more, or an equivalent volume, of C&DW (“covered projects”) shall comply with this ordinance. Failure to comply with any of the terms of this ordinance shall subject the applicant and the owner to the full range of enforcement mechanisms set forth hereinafter. Applicants of covered projects shall divert at least fifty (50) percent⁹ of all project-related C&DW. Applicants that meet this diversion goal may present proof of compliance and upon making a showing satisfactory to the WMP compliance official shall be entitled to a rebate of up to one hundred (100) percent the PSD.
- 2) Noncovered projects: Applicants for building demolition projects within the [city] [county] producing less than 1,000 pounds, or an equivalent volume, of C&DW (“noncovered projects”) shall be relieved of the obligation to prepare and submit WMP, but shall be informed by the [city] [county] of currently available diversion opportunities and the economic and environmental advantages of diversion, and encouraged to divert the maximum amount of all project-related C&DW. Non-covered project applicants may elect to file a WMP showing diversion of at least twenty-five (25) percent¹⁰ of all project-related C&DW. Applicants that meet this diversion goal may present proof of compliance and upon making a showing satisfactory to the WMP compliance official shall be entitled to a rebate of up to one hundred (100) percent of the PSD.
- 3) [City] [County]-Sponsored projects: All [city] [county]-sponsored building demolition projects producing 1,000 pounds or more, or an equivalent volume, of C&DW shall be considered “covered projects” for the purposes of this ordinance, and the [city] [county] shall submit a waste management plan to the WMP compliance official prior to beginning any building demolition and shall be subject to all applicable provisions of this ordinance.

c. Compliance as a Condition of Approval: Compliance with the provisions of this ordinance shall be listed as a condition of approval on any building, demolition or similar permit issued in connection with a covered project.

Section 4. Application for permit, submission of WMP, and payment of C&DWMAP fee.

- a. WMP Forms: Applicants for a demolition permit involving any covered project shall complete and submit a waste management plan (“WMP”), on a WMP form approved by the [city] [county] for this purpose as part of the application packet for the building or demolition permit. The completed WMP shall indicate all of the following:
 - 1) the estimated volume or weight of project C&DD, by materials type, to be generated;

⁸ See footnote 1.
⁹ See footnote 1.
¹⁰ See footnote 1.

- 2) the maximum volume or weight of such materials that can feasibly be diverted via salvage or recycling;
- 3) the vendor or facility that the applicant proposes to use to collect or receive that material; and
- 4) the estimated volume or weight of C&DW that will be landfilled.
- b. Calculating volume and weight of C&DW: In estimating the volume or weight of materials identified in the WMP, the applicant shall use the standardized Conversion Rates approved by and on file with the facility for this purpose.¹¹
- c. The C&DWMAP fee payable with the application shall be in addition to any other fees associated with demolition of a building, and shall be paid prior to commencement of any activity associated with demolition of a building.

Section 5. Salvage, recovery, reuse and recycling of C&DW

- a. Contractors and building owners shall make every covered project structure planned for demolition available for salvage, recovery, reuse and recycling of recyclable and reusable materials prior to demolition, and shall facilitate deconstruction, salvage, recovery, reuse and recycling of the maximum feasible amount of C&DW.
- b. It shall be the responsibility of the owner, the general contractor and all subcontractors to recover the maximum feasible amount of salvageable and recyclable materials prior to demolition.
- c. Recovered salvageable and recyclable materials shall qualify to be counted in meeting the diversion requirements of this chapter.
- d. Recovered salvageable and recyclable materials may be given or sold on the premises, or may be removed to reuse warehouse facilities for storage or sale. Title to designated salvageable or recyclable materials forwarded to the operator of a recycling facility or of a landfill will transfer to the service provider upon delivery.
- e. Any entity seeking to demolish a covered project shall make known publicly the intent to demolish the structure and the availability of potentially salvageable and recyclable materials by:
 - 1) Placing an advertisement, legal or retail, in a newspaper of general circulation with the address of the site and the hours and dates that the materials will be available for recovery, making such materials available for at least 10 days.
 - 2) Mailing or delivering a written notice to all parties on file at the [city] [county] wishing to receive such notice with the address of the site and the hours and dates that the materials will be available for recovery.

Section 6. Review of WMP

- a. Approval:
 - 1) Notwithstanding any other provision of this ordinance, no demolition permit shall be issued for any covered project unless and until the WMP compliance official has approved the WMP.

¹¹ See footnote 4.

1 Approval shall not be required, however, where an emergency
2 demolition is required to protect public health or safety.

3 2) The WMP compliance official shall only approve a WMP if the
4 WMP compliance official first determines that all of the following
5 conditions have been met:

6 a) the WMP provides all of the information set forth in
7 Section 4 of this ordinance;

8 b) the WMP indicates that at least fifty (50) percent¹² of all
9 C&DW generated by the project will be diverted; and

10 c) the applicant has deposited the necessary PSD.

11 3) Upon approval, the WMP compliance official shall mark the WMP
12 “approved”, return a copy of the WMP to the applicant, and notify
13 the [city] [county] official responsible for issuing construction,
14 building or demolition permits that the WMP has been approved.

15 b. Nonapproval:

16 1) If the WMP compliance official determines that the WMP is
17 incomplete or fails to indicate that at least fifty (50) percent of all
18 C&DW generated by the project will be diverted, the WMP
19 compliance official shall either:

20 a) Return the WMP to the applicant marked “denied”,
21 including a statement of reasons, and so notify the [city]
22 [county] official responsible for issuing construction,
23 building or demolition permits who shall then immediately
24 stop processing the construction, building or demolition
25 permit application, or

26 b) Return the WMP to the applicant marked “further
27 explanation required,” and notify the [city] [county] official
28 responsible for issuing construction, building or demolition
29 permits that the WMP has not been approved.

30 Section 7. Compliance With WMP

31 a. Compliance documentation: Within 30 days after the completion of any
32 covered project, the applicant shall submit to the WMP compliance
33 official documentation that it has met the diversion requirement for the
34 project. The diversion requirement shall be that the applicant has diverted
35 at least fifty (50) percent of the total C&DW generated by the project via
36 salvage or recycling, unless the applicant has been granted an unfeasibility
37 exemption pursuant to Section 8 of this ordinance, in which case the
38 diversion requirement shall be the maximum feasible diversion rate
39 established by the WMP compliance official for the project. This
40 documentation shall include all of the following:

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

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

¹² See footnote1.

1 Section 8. Unfeasibility exemption

- 2 a. Application: If an applicant for a covered project experiences unique
3 circumstances that the applicant believes make it unfeasible to comply
4 with the diversion requirement, the applicant may apply for an exemption
5 at the time that applicant submits the WMP required under Section 4 of
6 this ordinance. The applicant shall indicate on the WMP the maximum
7 rate of diversion applicant believes is feasible for each material and the
8 specific circumstances that applicant believes make it unfeasible to
9 comply with the diversion requirement.
- 10 b. Meeting with WMP compliance official: The WMP compliance official
11 shall review the information supplied by the applicant and shall meet with
12 the applicant to discuss possible ways of meeting the diversion
13 requirement. Upon request of the [city] [county], the WMP compliance
14 official may request that staff from the facility attend this meeting or may
15 require the applicant to request a separate meeting with facility staff.
16 Based on the information supplied by the applicant and, if applicable, the
17 facility, the WMP compliance official shall determine whether it is
18 possible for the applicant to meet the diversion requirement.
- 19 c. Granting of exemption: If the WMP compliance official determines that it
20 is unfeasible for the applicant to meet the diversion requirement due to
21 unique circumstances, the WMP compliance official shall determine the
22 maximum feasible diversion rate for each material and shall indicate this
23 rate on the WMP submitted by the applicant. The WMP compliance
24 official shall return a copy of the WMP to the applicant marked “approved
25 for unfeasibility exemption” and notify the [city] [county] official
26 responsible for issuing construction, building or demolition permits that
27 the WMP has been approved.
- 28 d. Denial of exemption: If the WMP compliance official determines that it is
29 possible for the applicant to meet the diversion requirement, the WMP
30 compliance official shall so inform the applicant in writing. The applicant
31 shall have 30 days to resubmit a WMP form in full compliance with
32 Section 4 of this ordinance. If the applicant fails to resubmit the WMP, or
33 if the resubmitted WMP does not comply with Section 4 of this ordinance,
34 the WMP compliance official shall deny the WMP in accordance with
35 Section 6 of this ordinance, and notify the [city] [county] official
36 responsible for issuing construction, building or demolition permits that
37 the WMP has not been approved.

38 Section 9. Appeal. An adverse decision by the WMP compliance official with respect to
39 disapproval of a WMP, denial of an exemption or the rebate of PSDs may be
40 appealed by the applicant to the [city council] [county board of supervisors]
41 pursuant to the following rules [if the city or county already has rules applicable
42 to the appeal of adverse decisions made by city or county officials, the existing
43 process may be incorporated by reference]:

- 44 a. The appeal must be filed in writing with the [city clerk] [county auditor
45 serving as secretary for the county board of supervisors] within five (5)

1 business days of the delivery of the adverse decision by the WMP
2 compliance official to the applicant.

- 3 b. The written appeal shall specify in detail:
- 4 1) the decision appealed from,
 - 5 2) the errors allegedly made by the WMP compliance official giving
6 rise to the appeal,
 - 7 3) a written summary of all oral and written testimony the applicant
8 intends to introduce at the hearing, including the names and
9 addresses of all witnesses the applicant intends to call,
 - 10 4) copies of all documents the applicant intends to introduce at the
11 hearing, and
 - 12 5) the relief requested.
- 13 c. Within three (3) business days of the filing of the appeal, the WMP
14 compliance official shall specify in writing:
- 15 1) the reasons for making the decision appealed from,
 - 16 2) a written summary of all oral and written testimony the WMP
17 compliance official intends to introduce at the hearing, including
18 the names and addresses of all witnesses the WMP compliance
19 official intends to call, and
 - 20 3) copies of all documents the WMP compliance official intends to
21 introduce at the hearing.
- 22 d. Within five (5) business days of the filing of the appeal, the [city clerk]
23 [county auditor serving as secretary for the county board of supervisors]
24 shall notify the applicant and the WMP compliance official by ordinary
25 mail, and shall give public notice in accordance with Chapter 21, Iowa
26 Code, of the date, time and place for the regular or special meeting of the
27 [city council] [board of supervisors] at which the hearing on the appeal
28 shall occur. The hearing shall be scheduled for a date not later than twenty
29 (20) days after the filing of the appeal. The rules of evidence and
30 procedure, and the standard of proof to be applied, shall be the same as
31 provided by Chapter 17A, Code of Iowa. The applicant may be
32 represented by counsel. The WMP compliance official may be represented
33 by counsel for the facility or by the [city] [county] attorney, or by an
34 attorney designated by the [city] [county] at [city] [county] expense.

35 Section 10. Enforcement

- 36 a. Violation of any provision of this ordinance may be enforced by civil
37 action including an action for injunctive relief. In any civil enforcement
38 action, administrative or judicial, the [city] [county] shall be entitled to
39 recover its attorneys' fees and costs from a person who is determined by a
40 court of competent jurisdiction to have violated this ordinance.
- 41 b. Violation of any provision of this ordinance may also be enforced as a
42 municipal infraction within the meaning of §364.22, pursuant to the
43 [city's] [county's] municipal infraction ordinance
- 44 c. Enforcement pursuant to this section shall be undertaken by the [city]
45 [county] through the [city] [county] attorney.
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