

BACKGROUND

Proposal Description

The proposal would amend SMC Section 23.40.006 to allow reuse and recycling of building materials from structures containing dwelling units as an exception to the regulations prohibiting demolition of housing. A new subsection 23.40.006 C would allow a demolition permit to be issued if a complete building permit application for construction of a new principal structure has been submitted, as opposed to the current requirement that the permit for a new structure or use be issued. Both the application for the demolition permit and the application for the new structure must be exempt from review under the State Environmental Policy Act, and no other permit must be required under SMC Titles 23 or 25 as a condition to issuance of the demolition permit. Further, the Director of DPD must have approved a waste diversion plan. The proposal would apply City-wide.

A new Section 23.40.007 is also proposed. Subsection 23.40.007 A authorizes DPD to define by rule the specific requirements of an acceptable waste diversion plans. These requirements must set minimum levels of building materials that must be diverted from landfills. Rather than have the Council determine the specific, acceptable levels (and amend the Code to keep pace with evolving industry practices), the ordinance sets parameters for DPD to follow. The levels set by the DPD rule:

- ❑ may vary by disposal method or type of material;
- ❑ must be established on the basis of DPD's review of practices employed in the relevant industries in the region (these would likely include those involved in construction, demolition, and reuse and recycling);
- ❑ must reflect DPD's opinion of the degree of waste diversion reasonably attainable through the use of accepted industry practices; and
- ❑ may be altered as industry practices evolve.

A proposed Director's Rule will require that the property owner or authorized representative represent to DPD that the existing structure(s) is to be removed in a manner such that: a minimum of 20% of the building materials, by weight and excluding asphalt, brick and concrete, will be reused; a minimum of 50% of the building materials, by weight and excluding asphalt, brick and concrete, will be reused, recycled or beneficially used; and 100% of asphalt, brick and concrete will be reused, recycled or beneficially used (and are not included in the reuse or recycling percentages). These requirements reflect DPD's opinion of the degree of waste diversion reasonably attainable through the use of accepted industry practices. These requirements can be changed in the future as those practices evolve, without the need for further Council action.

A separate amendment to Section 23.40.006.B would provide greater flexibility to relocate a structure containing dwelling units from one site to another. The current Code provides that a demolition permit may be issued if a permit or approval has been issued to relocate an existing structure containing dwelling units to another site within the City. The proposed amendment would simply expand the geographic reach of that exemption beyond the City limits. Adding this amendment will improve the ability to preserve existing housing stock, particularly houses of architectural or cultural significance that might otherwise simply be demolished.

Section 23.40.006 D, allowing housing units to be demolished if they have been vacant since January 1, 1974, would be removed from the Code, as this exception is no longer needed to ensure that housing is not simply left vacant in order to justify demolition.

In addition to the changes to 23.40.006 and a new subsection 23.40.007 A, new subsections 23.40.007 B and C, as well as proposed amendments to Section 23.90.018, would require applicants to demonstrate compliance with an approved waste diversion report within 90 days of issuance of their demolition permit or be subject to a penalty. The penalty for a failure to demonstrate compliance with a waste diversion plan would be calculated by converting the total square footage of a demolished structure to tons and then multiplying by the City Council's adopted rate for refuse disposal at City recycling and disposal stations, which is currently \$130.00 per ton. The amendments to Section 23.90.018 would make violation of Section 23.40.007 B, failure to demonstrate compliance with a waste diversion plan, an enforceable civil penalty similar to other violations of Land Use Code regulations.

Public Comment

Since this SEPA analysis and decision is not subject to the procedural requirements of SMC Chapter 23.76, public notice is not required for the proposal and accordingly there are no public comments.

ANALYSIS – SEPA

This proposal is an adoption of legislation and is defined as a non-project action. This action is not specifically listed as a Categorical Exemption (SMC 25.05.800); therefore it must be analyzed for probable significant adverse environmental impacts. A threshold determination is required for any proposal that meets the definition of "action" and is not categorically exempt.

The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the proponent, dated April 24, 2008. The following describes the analysis conducted to determine if the proposal is likely to have a *probable significant adverse environmental impact*. This threshold determination is based on:

- *the proposal*, as described above and in memoranda;
- the information contained in the *SEPA checklist*;
- additional information, such as analyses prepared by City staff; and
- the experience of DCLU analysts in reviewing similar documents and actions.

This is a substantive change to the Land Use Code, to allow reuse and recycling of building materials from structures containing dwelling units as an exception to regulations prohibiting demolition of housing, and establish a process for the reuse and recycling of building materials when demolishing structures containing dwelling units. This amendment may result in potential impacts and warrants further discussion.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed Land Use Code amendments would result in no immediate adverse short-term impacts because the adoption would be a non-project action. The discussion below evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials.

The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. The proposed amendment is a non-project action that would allow reuse and recycling of building materials from structures containing dwelling units as an exception to regulations prohibiting demolition of housing, and establish a process for the reuse and recycling of building materials when demolishing structures containing dwelling units. Since the amendments apply city-wide, it is possible that elements of the natural environment on future sites, where building materials are removed from structures for reuse and recycling could be impacted. Development of specific projects on individual sites is subject to the City's existing regulations, such as the Stormwater, Grading and Drainage Ordinance, the Environmentally Critical Areas Ordinance, and Noise Ordinance, and will be subject to environmental review (if they meet or exceed thresholds for environmental review).

Built Environment

Land & Shoreline Use, Height/Bulk/Scale

The intent of the proposal is to allow reuse and recycling of building materials from structures containing dwelling units as an exception to regulations prohibiting demolition of housing, and establish a process for the reuse and recycling of building materials when demolishing structures containing dwelling units. Development of specific projects on individual sites is subject to the City's existing regulations and will be subject to environmental review (if they meet or exceed thresholds for environmental review). The proposal does not involve change of use and allows only reuse and recycling of building materials from existing structures, so any impacts to land and shoreline use or height, bulk, and scale are expected to be minimal.

