

Publication- “Model Ordinance for Removal of Salvageable Non-Structural Materials from Vacated Buildings”

Summary of Changes Based on Public Comments

Thank you to the individual who provided feedback on the Department of Natural Resources proposed publication titled “Model Ordinance for Removal of Salvageable Non-Structural Materials from Vacated Buildings”.

Comment Provider	Public Comment	DNR Response	Edits?
Lynn Morgan, Waste Management	<p>1. Regulating all demolition-related recycling wildly overshoots the model ordinance’s stated purpose, the management of non-structural salvaging. The proposed permitting and reporting requirements for recycling serve no purpose in deterring opportunistic, irresponsible salvaging. The requirements would, though, make recycling more costly and difficult and have the unintended effect of discouraging recovery of materials.</p> <p>Recommendation: Remove all provisions regulating recycling during demolition</p>	<p>Most of the previous provisions regulating recycling were removed. An optional section was added that allows the municipality to <u>require certain materials to be salvaged, reused or recycled</u>. The municipality may elect to waive those requirements should recycling of a specific material not be practicable. The Department feels like this addresses many of the concerns raised in comments a-g while still encouraging recycling.</p>	Y
	<p>1-a. The proposed recycling reporting requirements are unrealistic. For example, Waste Management operates a facility in Milwaukee that separates mixed loads of construction and demolition (“C & D”) material into recyclable components such as metal, wood, plastics and masonry. We cannot provide individual customers with weight tickets by type and quantity of recyclable material, sales receipts, or chain of custody logs.</p>	<p>Part of the purpose of this ordinance is to ensure that waste materials are being disposed of properly. However, the Department understands that classification of all materials may be too onerous. Therefore, these provisions have been pared down to only require <u>a plan for disposition</u> of the waste and recyclable materials.</p>	Y

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	1-b. Customers cannot provide meaningful inventories and estimates of materials to be recycled prior to a project. Less material could be recycled due to unexpected contamination or loss of an end market, for instance; more may be recycled if markets open for additional materials.	See response to "1-a".	Y
	1-c. The ordinance requires customers to meet a required recycling percentage but provides no guidance or method for setting the percentage. At the same time, the ordinance forces landfilling of materials not identified as "recyclable" in a permit, even if the materials can be recycled.	This has been removed. See response to "1".	Y
	1-d. The requirement to maintain a log of "all shipments to and from the work site," including license plate numbers, dates and times, should not apply to the removal of materials for recycling or disposal. The customer is not always present at the work site when containers are pulled.	Part of the purpose of this ordinance is to ensure that waste materials are being disposed of properly disposed. The Department feels that it should be the responsibility of the Permit Holder to ensure that proper records are kept. The Permit Holder does not necessarily need to be on site during waste removal, but should ensure that subcontractors are keeping adequate logs.	N
	1-e. The distinction between "salvageable material" and "recyclable material" seems unclear. If a demolition contractor separates materials, such as bricks, for resale in the course of demolishing a building, is that salvaging? What is the difference between "demolishing" and "dismantling"? If items <i>could</i> have resale, reuse or scrap value but	See answer to "1". This definition was removed from the document.	Y

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	the value is speculative, is that salvaging? What if the value is the benefit of avoided disposal fees, and a recycler rather than a contractor is compensated for the material itself?		
	1-f. As drafted, 100% of the material delivered to an energy recovery facility would constitute “recycling,” regardless of whether the material has energy value or not.	See answer to “1”. This provision was removed from the document.	Y
	1-g. Why would a property owner elect to submit to the ordinance if it would be less costly to simply demolish and landfill a structure?	This is a big picture question not addressed by the ordinance. The Department encourages municipalities to also have a strong demolition ordinance that addresses demolition activity issues, which may be similar to issues that arise during non-demolition salvaging. Clarification was added to the document that this ordinance applies to salvaging that is not part of an approved demolition plan. In addition, the recommendation for a strong demolition ordinance is included in the model document cover sheet.	Y
	2. Revise the ordinance to limit its applicability solely to non-structural salvage occurring without a demolition or remodeling permit	See answer to “1-g”. Clarification was added in the Purpose and Exclusions provisions of the model ordinance.	Y
	3. Under Purpose, it’s unclear whether the ordinance applies during remodeling. If the intent is to exclude	See answer to “2”.	Y

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	remodeling, revision along these lines may be helpful: <i>“The phrase ‘immediate functional replacement thereof’ does not includes replacement that occurs as a part of a remodeling process...”</i>		
	4. An exemption is needed for materials owned and removed by a tenant. Some commercial leases, for example, require a vacating tenant to remove all data cabling.	A definition of Tenant and an exclusion for items owned and removed by the tenant during the term of a written lease was added to the model ordinance.	Y
	5. The permitting process will make public the type, amount, and value of recoverable materials and identify potential markets. Advertising this information will foster theft of materials from vacant buildings without any health and environmental safeguards. A solution would be to provide a mechanism for maintaining confidentiality of certain data	<p>The Department agrees that this is a valid concern. The permitting provisions of the model ordinance were revised to create a two-tiered system based on size and complexity of the operation. The first tier (smaller projects) would be administratively approved. The second tier (larger projects) would be approved by the governing body.</p> <p>In the second tier, the Code Official will still be responsible for administratively approving the plan, and the governing body would review the recommendation of the Code Official and approve the operating and liability requirements of the project.</p> <p>Municipalities utilizing the model document may use the two-tier system, one-tier, or an existing permitting process.</p>	Y

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		When implementing the permitting process, municipalities should consider security concerns when requiring and disclosing information.	
	6. Please consider authorizing a partial exemption from the permitting requirements for the removal of historically, culturally or architecturally significant items in order to ensure their preservation. An example would be a historical society seeking to remove a section of wall containing a mural. A less onerous permit could address any health and environmental issues specific to that limited salvage activity without forcing the group to address building-wide concerns, provide a letter of credit and so on.	An exclusion was added for the removal of historically, culturally or architecturally significant items, with enough flexibility to allow the municipality to decide the appropriate documentation required.	Y