



ORDINANCE No. 5033

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 8.43 of Title 8 of the El Dorado County Ordinance Code entitled Construction and Demolition Debris Recycling within the County of El Dorado is hereby amended in its entirety and replaced as follows:

CHAPTER 8.43 CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING WITHIN THE COUNTY OF EL DORADO

8.43.010 Title and Purpose.

This chapter shall be known as the "Construction and Demolition Debris Recycling Ordinance."

The purpose of this chapter is to establish requirements for the recycling of construction and demolition (C&D) debris generated within the unincorporated area of the county to further the county's efforts to reduce waste deposited in landfills and to meet or exceed the mandatory diversion requirements imposed by the California Integrated Waste Management Act of 1989, commonly referred to as AB 939.

8.43.020 Findings.

The Board of Supervisors of the County of El Dorado finds that:

- A. The California Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) requires each local jurisdiction to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and to make substantial reductions in the volume of waste materials going to the landfills, or face fines of up to \$10,000 per day.
- B. The California Global Warming Act of 2006, Assembly Bill 32 (AB 32) mandates greenhouse gas emissions reduction and led to the implementation of the California Green Building Standards Code (CalGreen) which defines criteria for C&D debris management and diversion.
- C. Waste from construction, demolition, and renovation of buildings and structures represents a significant portion of the volume of waste stream generated within the County and much of this waste is particularly suitable for recycling and reuse, and that,

except in unusual circumstances, it is feasible to divert at least fifty percent (50%) of C&D debris.

- D. Adoption of a C&D diversion ordinance that includes CalGreen standards for the reuse and recycling of C&D debris is essential to meet the goals of the El Dorado County Solid Waste Management Plan, which includes increasing waste diversion to seventy-five (75%), reducing greenhouse gas emission, promoting sustainability, and meeting state law requirements.

8.43.030 Definitions.

For purposes of this Chapter the following definitions shall apply:

- A. "Acknowledgment Form" means a completed County-provided form indicating the option that permittee will use to comply with the diversion requirements and submitted for approval by the director before issuance of a permit for a covered project.
- B. "Approved Recycling Facility" means a facility that collects and separates C&D Debris for reuse or recycling and approved by the director in accordance with written and verifiable acceptance criteria.
- C. "Building Official" means the county's lead Building Official of the Development Services Division of the Community Development Agency or his/her designee.
- D. "Building Permit" means a permit, other than a grading permit, issued by the Development Services Division of the Community Development Agency for the erection, construction, reconstruction, installation, moving, demolition, or alteration of any building or structure.
- E. "Construction and Demolition (C&D) Debris" means (i) used or discarded materials generally considered to be not water soluble and non-hazardous in nature as defined in California Health and Safety Code Section 25100 et seq. Such materials include, but are not limited to steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, roofing materials and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project; (ii) remnants of new materials including, but not limited to, cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project; (iii) other non-hazardous wastes that are generated at construction or demolition projects provided such amounts are consistent with best management practices of the industry.
- F. "Construction and Demolition (C&D) Debris Recycling Report" means a completed County-provided form detailing the management of C&D debris generated by a covered project that is submitted quarterly and/or after demolition or construction and approved by the Director for the purpose of compliance with this Chapter. The report shall indicate all

C&D debris generated by a covered project, the manner in which C&D debris was diverted, the approved recycling facility where C&D debris was delivered, including the dates, types, and weight/volume of C&D debris.

- G. "Covered Project" means any project, work, or activity which requires an application for a building (renovation) or demolition permit or any similar permit from the County, regardless of square footage or project valuation.
- H. "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.
- I. "Director" means the Environmental Management Division Director of the Community Development Agency or his/her authorized designee.
- J. "Franchise Hauler" means any waste hauler that has a Solid Waste Service Agreement granted by the County Board of Supervisors, for the collection, transport, Recycling, and disposal of Solid Waste within a defined franchise area.
- K. "Mixed C&D Debris" means C&D debris that includes commingled recyclable C&D materials and nonrecyclable C&D debris generated from a project.
- L. "Permittee" means any individual, firm, contractor, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any entity or person whatsoever who applies to, or receives from, the County applicable permits to undertake any construction, remodeling, or demolition project within the unincorporated County.
- M. "Recyclable C&D Debris" means C&D debris designated by the director to be diverted from landfills and returned to the economic mainstream in the form of raw material for new, reused or reconstituted products that meet the quality standards necessary to be used in the marketplace.
- N. "Recycle" means the process of collecting, sorting, cleansing, treating, and/or reconstituting materials that would otherwise be landfilled 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.
- O. "Reuse" means the further or repeated use of C&D Debris, including reuse on-site.
- P. "Reuse On-Site" means any action that involves the beneficial use of materials at the location of origin such as the construction of other structures, fencing, decorative, or other beneficial applications with prior approval by the director.

- Q. "Self-Haul" means the hauling for disposal and/or recycling of C&D debris by the same person who generated the C&D debris. This includes permittee, a general contractor, or subcontractor identified in the acknowledgment form as doing work on the project.
- R. "Waste Management Plan (WMP)" means a completed County-provided form as described in Section 8.43.060 prepared by permittee and submitted for approval by the director for the purpose of compliance with this chapter.

8.43.040 Applicable Projects; Exemptions.

- A. The requirements of this chapter shall apply to covered projects, unless exempt under subsection (B) below.
- B. Exemptions. The following projects are exempt and not subject to the requirements of this chapter. In the event that state or federal law institute requirements that eliminate, alter, or modify any of the exemptions specified in subsection (B) below, such state or federal law shall supersede said exemption and shall be enforced by the director:
1. Construction of a new residential or non-residential building or structure that is equal to or less than 120 square feet.
 2. Additions to an existing non-residential building or structure that is less than 1,000 square feet.
 3. Renovation or alteration of an existing non-residential building or structure where the permit valuation is less than \$200,000.
 4. Additions, renovations, or alterations of existing residential buildings where the addition or alteration does not increase the building's conditioned area, volume, or size, except roof replacement projects.
 5. One-story detached accessory structures used as a tool and storage sheds, playhouses and similar uses, provided the floor area is equal to or less than 120 square feet.
 6. Pool construction on parcels developed with an existing building or structure.
 7. Construction of new decks.
 8. Work for which only an electrical, mechanical, plumbing, solar, or sign permit is required.
 9. Emergency demolition necessary to protect the public health, safety, or welfare.

8.43.050 Diversion Requirement.

- A. At least fifty percent (50%) of C&D debris generated from a covered project shall be diverted from disposal in landfills by recycling and reuse, unless the permittee has been granted a lower percentage requirement pursuant to subsection (B) below. In the event that state or federal

law institutes requirements that exceed the diversion requirements specified herein, such state or federal law shall supersede this section and shall be enforced by the director.

- B. If special circumstances make it infeasible to comply with the 50% diversion requirement, permittee may apply for an exemption at the time the application for a building permit is submitted. The director shall review the information submitted, and if, after considering the availability of markets for the materials, the size of the project, and any other circumstances beyond permittee's control, the director determines it is infeasible for permittee to meet the 50% diversion requirement, the director shall determine the maximum feasible diversion rate for waste generated by the project and shall indicate the new diversion requirement permittee shall be required to meet.

8.43.060 Compliance.

- A. Permittee shall submit to the director the acknowledgment form and all applicable supporting documentation in a format prescribed by the director for review and approval before a building permit may be issued. Permittee shall meet the diversion requirements by any of the following options:
1. Option One: Franchise Hauler. Use of a franchise hauler to collect, haul, dispose, recycle, and manage all materials, including C&D debris, generated from the covered project. Permittee shall designate the franchise hauler in the acknowledgment form and submit proof of an agreement or account with the franchise hauler. The director may, in his or her discretion, request copies of receipts from permittee or the franchise hauler. Upon approval of the acknowledgment form by the director, the permittee shall be deemed in compliance with the requirements of this chapter.
 2. Option Two: Waste Stream Reduction Alternative. Indicate on the acknowledgment form that permittee will utilize the waste stream reduction alternative, which requires that the total material generated from the covered project that is landfilled does not exceed the maximum total combined weight as specified in the CalGreen standards.
 3. Option Three: Waste Management Plan (WMP). Submit a WMP for review and approval by the director. The WMP shall be accompanied by a non-refundable processing fee, as established by resolution of the County Board of Supervisors.
 - a. The WMP shall identify the materials to be recycled or reused and/or disposed of, the manner in which the C&D debris will be managed and/or stored on the project site, the facilities and providers that will be used for the transport and delivery of C&D debris, the construction methods employed to reduce the amount of C&D debris generated, and the estimated volume or weight of C&D debris that can be feasibly diverted and landfilled.
 - b. No building permit shall be issued for any covered project unless and until the director has approved the WMP. The director shall make a determination within fourteen (14) calendar days after receipt of the WMP and shall only approve a WMP if the director determines that it contains all the required information specified in subsection (a) above. An addendum to an approved WMP must be submitted for approval by the director if there are any changes to the information provided in the approved WMP

during the course of the project. If the director determines that the WMP is incomplete or fails to satisfy the conditions for approval, the director shall either: (i) deny the WMP, specifying the reasons for denial, and promptly notify the building official of the denial who shall then immediately discontinue processing the application; or (ii) return the WMP to permittee with a request for further information, and promptly notify the building official who may, in his or her discretion, suspend or discontinue processing the permit application depending on the circumstances and the request for further information.

- c. The WMP shall include a C&D debris recycling report that permittee must submit to the director quarterly and within forty-five (45) calendar days after issuance of the final and/or occupancy approval of the project by the building official. Permittee shall submit the C&D debris recycling report and all supporting documentation consisting of all receipts, weight tickets, weight tags, or other records of measurement or equivalent documentation that were issued for the collection and receipt of the materials generated from the covered project. Permittee 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 certified scales that are in compliance with all regulatory requirements for accuracy and maintenance. For C&D debris for which weighing is not practical, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, permittee shall use conversion rates approved by the director for this purpose. The director shall review the information submitted and determine whether permittee has complied with the diversion requirement as follows:
 - (i) Full Compliance. If the director determines permittee has fully complied with the diversion requirement applicable to the covered project, the director shall notify permittee in writing and release the deposit, if any.
 - (ii) Good Faith Effort. If the director determines that the diversion requirement has not been achieved, the director shall determine on a case-by-case basis whether permittee has made a good faith effort to comply with this chapter. In making this determination, the director shall consider the availability of markets for the C&D debris landfilled, the size of the covered project, the documented efforts of permittee to divert C&D debris, and any relevant circumstances beyond the control of permittee. If the director determines that permittee has made a good faith effort to comply with this chapter, the director shall notify permittee in writing and the applicant shall have no further obligation under this chapter.
 - (iii) Noncompliance. If the director determines that permittee failed to comply with this chapter, or if permittee fails to submit the documentation required, the director will impose a diversion compliance fee in accordance with this chapter.
- d. Source-separated recyclable C&D debris and mixed C&D debris shall be transported and delivered by a franchise hauler or self-hauled to an approved recycling facility. Source-separated nonrecyclable C&D debris shall be transported and delivered by a franchise hauler or self-hauled to a waste management facility.

- B. If a building permit expires prior to completion of the covered project, a revised acknowledgment form and applicable supporting documentation for that project must be submitted to the director for review and approval to ensure compliance with current C&D debris requirements prior to the building official reactivating the building permit.

8.43.070 Enforcement.

- A. Diversion compliance fee. If the director determines that a permittee failed to comply with the requirements of this chapter, the director shall issue a written notice of non-compliance and impose a diversion compliance fee as established by resolution of the County Board of Supervisors.
- B. Deposit. A permittee who is assessed a diversion compliance fee for non-compliance shall be required to pay a deposit as established by resolution of the County Board of Supervisors when submitting an application for a permit for a covered project within one year of imposition of the diversion compliance fee. The deposit will be returned in full, without interest, upon proof of satisfaction that permittee fully complied with this chapter. If a lesser percentage of C&D debris than required is diverted, a proportionate share of the deposit amount will be returned.
- C. All fees collected and security deposits forfeited pursuant to this chapter will be used for the costs of administration of this chapter and programs to divert waste away from landfills.
- D. The remedies set forth herein are cumulative to any other remedy available to the county. Nothing contained herein shall limit or be deemed to prevent the county from pursuing any other available remedy under this code or any other applicable law.

8.43.080 Appeal.

- A. Any person wishing to appeal a decision or determination made under this chapter must submit a written appeal to the Director of the Community Development Agency, or successor agency, within ten (10) calendar days of notice of the decision of the director is personally served or mailed to permittee. The appeal shall state the reason for altering or overruling the decision of the director, and shall be signed by the permittee or their authorized agent.
- B. The Director of the Community Development Agency, or successor agency, shall set the appeal for a hearing before the El Dorado County Building Appeals Board within forty-five (45) calendar days after the appeal is filed. Upon hearing the matter, the appeal may be granted, conditionally granted, or denied. The board decision on the appeal shall be final.
- C. Failure to properly and timely file a written appeal of the decision of the director shall constitute a waiver of all right to an appeal hearing and the director's decision shall be final, and shall also constitute a failure to exhaust administrative remedies and a bar to any judicial action pertaining to the director's decision.

8.43.090 Standards, Guidelines, and Criteria.

The director may establish and/or adopt standards, guidelines, and criteria, including designating the types of materials that are deemed recyclable C&D debris, consistent with the requirements of this chapter and reasonably necessary to achieve the objectives of this chapter.

8.43.100 Inspections.

The director may make such inspections as he/she may deem necessary to determine permittee's compliance with this chapter. All records and documentation required under this chapter shall be made available for inspection, examination and are subject to verification by the director.

8.43.110 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter irrespective of whether one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases is held invalid or ineffective. To this end the provisions of this chapter are declared to be severable.

Section 2. This ordinance shall take effect and shall become effective thirty (30) days following the adoption hereof.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 23rd day of February, 2016, by the following vote of said Board:

ATTEST
JAMES MITRISIN
Clerk of the Board of Supervisors

By Marcie MacFauland
Deputy Clerk

Ayes: Brian K. Veerkamp, Michael Ranalli,
Ron Mikulaco, Shiva Frentzen, Sue Novasel

Noes: None

Absent: None

[Signature]
Chair, Board of Supervisors
Ron Mikulaco