

## Construction and Demolition Debris Recycling Ordinance

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 is hereby added to read as follows:

#### CHAPTER 8.43

#### CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING

#### WITHIN THE COUNTY OF EL DORADO

#### Sections:

8.43.010 Title and Purpose

8.43.020 Findings

8.43.030 Applicability of Definitions

8.43.040 Threshold Applicability

8.43.050 Definitions

8.43.060 Requirements

8.43.070 Standards, Guidelines, and Criteria

8.43.080 Inspections

8.43.090 Appeals

8.43.091 Severability

*3% up to \$10,000  
Severability  
\$5,000 by feet*

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**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 achieve Reduction and/or Recycling of Debris generated by Projects, thereby diverting the Debris from Disposal Facilities, saving landfill space, and conserving natural resources consistent with the goals of Section 40000 et seq. of the Public Resources Code.

#### **8.43.020 Findings.**

A. The County finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials from the landfill by December 31, 2000.

B. The County finds that every city and county in California, including the County of El Dorado, could face fines up to \$10,000 a day for not meeting the above mandated goal.

C. The County finds that California Senate Bill 1374 (SB 1374) requires the State of California to develop a model ordinance mandating diversion of 50-75% of construction and demolition debris from landfills.

D. The County finds that reusing and recycling construction and demolition debris is essential to further the County's efforts to reduce waste and comply with AB 939.

E. The County finds that construction and demolition debris waste reduction and recycling have been proven to reduce the amount of such material that is landfilled.

F. The County finds that, except in unusual circumstances, it is feasible to divert an average of at least fifty (50%) percent of all construction and demolition debris from construction, demolition, and renovation projects.

**8.43.030 Applicability of Definitions.** The definitions of this Chapter shall apply only to the provisions of this Chapter.

**8.43.040 Threshold Applicability.** As further defined in 8.43.050, this Article applies to demolition and construction Projects within the unincorporated County of El Dorado in which the footprint of the structure exceeds 5,000 square feet in area.

#### **8.43.050 Definitions.**

A. "Building Official" means the Building Official of the Building Department or his/her authorized representative.

B. "Construction and Demolition Debris" means Solid Waste generated by or resulting from construction or demolition-related activities including, but not limited to, building, construction, deconstruction, demolition, excavation, grading, improvement, land clearing, reconstruction, remodeling, renovation, repair, site clean-up, or any activity relating to any of these activities.

C. "Debris Recycling Acknowledgment" means a written statement signed by the Permittee, in the form prescribed by the Director, to acknowledge the actions planned to be taken or administered by or on behalf of the Permittee to achieve Reduction or

Recycling of at minimum fifty percent (50%) by weight of Debris resulting from a Project. This minimum fifty percent (50%) Reduction or Recycling may be increased by the Director to reflect any such higher percentage that may hereafter be mandated by State law.

D. "Debris Recycling Report" means a written summary signed by the Permittee, in the form prescribed by the Director, for the purpose of reporting the amount of Debris Reduced, Recycled, and/or Reused On Site for a Project and the amount of Debris from that Project disposed at a disposal facility.

E. "Director" means the Director of the Environmental Management Department or his/her authorized representative.

F. "Performance Security" means any performance bond, surety bond, letter of credit, or certificate of deposit submitted to the county pursuant to Section 8.43.060.

G. "Permit" means a permit other than a grading permit issued by the Building Department for construction or demolition-related activities including, but not limited to, building, construction, deconstruction, demolition, excavation, grading, improvement, land clearing, reconstruction, remodeling, renovation, repair, site clean-up, or any activity relating to any of these activities.

H. "Permittee" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any entity or person whatsoever that applies for a Permit.

I. "Project" means any activity which occurs within the unincorporated areas of the County that either (1) requires a Permit that specifies any demolition work or activity that exceeds 5,000 square feet in area or (2) requires a Permit that authorizes construction-related activities including, but not limited to, building, construction, excavation, grading, improvement, land clearing, reconstruction, remodeling, renovation, repair, site clean-up, or any activity relating to any of these activities, for building improvements that exceed 5,000 square feet in area. One single development of multiple residential units, multiple commercial units, or multiple industrial units within any subdivided parcel will be considered as a single Project regardless of the number of Permits required for the development. The provisions of this chapter shall not apply to single-family and/or two-family residential unit and associated accessory structures that are not part of a multiple unit subdivision or development. Projects that directly result from emergency demolitions to protect public health or safety are excluded from the definition of Project.

J. "Recycle" or "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream, as defined in Section 40180 of the Public Resources Code.

K. "Recycling Facility" means a facility that collects specific types of construction and demolition debris for reuse or recycling. Recycling facilities are identified in the

California Integrated Waste Management Board's C&D Recyclers Database (available on the worldwide web at <http://www.ciwmb.ca.gov/ConDemo/Recyclers/>).

L. "Reduce" or "Reduction" means any action that causes a net reduction in the generation of solid waste, as further defined by Section 40196 of the Public Resources Code.

M. "Reuse" and Reused on Site" mean 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 approved use.

N. "Solid Waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, as further defined in Section 40191 of the Public Resources Code.

O. "Solid Waste Landfill" means a disposal facility that accepts solid waste for land disposal, as further defined by Section 40195.1 of the Public Resources Code.

#### **8.43.060 Requirements.**

A. All Permittees for Projects as defined by this chapter and within the unincorporated areas of the County shall submit a Debris Recycling Acknowledgment to the Director for review and approval at the time of submitting an application for a Permit.

B. No Permit will be issued by the Building Official for a Project unless and until the Director has approved the Debris Recycling Acknowledgment and, if applicable, the Performance Security and administrative fee has been submitted.

C. Within 60 days after the final and/or occupancy approval of the Project by the Building Official, the Permittee shall submit a Debris Recycling Report to the Director for the Director's approval.

D. The Director shall approve the Debris Recycling Report only if the Report validates that the Permittee either Reduced, Recycled, and/or Reused On Site at minimum fifty percent (50%) by weight of the total Debris generated by the Project. Upon approval of the Debris Recycling Report, the full Performance Security, if applicable, shall be released to the Permittee within ten (10) business days.

E. Noncompliance shall be defined as failure to meet the requirements of this Chapter. Specifically, noncompliance means a) failure to submit a Debris Recycling Acknowledgment pursuant to this Chapter, b) failure by the Permittee to achieve Reduction, Recycling or Reuse on Site of a minimum of fifty percent (50%) by weight of Debris resulting from the Project, and/or c) failure by a Permittee to submit a Debris Recycling Report within 60 days of final and/or occupancy approval of the Project by the Building Official. Permittees determined by the Director to be noncompliant will be subject to forfeiture of the Performance Security, if applicable, in its entirety. Performance Security Deposits forfeited to the County shall be used only for the cost of

programs whose purpose is to divert the County's solid waste from landfill disposal. Any person violating any provision of this chapter is guilty of an infraction and upon conviction shall be punished by a fine not to exceed the value of twice the Performance Security for a Project.

F. In the event that a Permittee has failed to submit an approved Debris Recycling Report within two years of the date of the current Debris Recycling Acknowledgment, the Permittee shall submit with the Debris Recycling Acknowledgment a Performance Security. The amount of the Performance Security shall be calculated as the lesser of three (3) percent of the total project cost calculated by the Building Official or \$10,000. Acceptable forms of Performance Security include the following: performance bonds, surety bonds, letters of credit, and certificates of deposit.

G. If the Director determines upon review of the Debris Recycling Report that the Permittee has not achieved Reduction, Recycling or Reuse on Site of a minimum of fifty percent (50%) by weight of Debris resulting from the Project, then the Director shall determine if the Permittee has made a good faith effort to comply with this Chapter. In making this determination, the Director shall consider the documented efforts of the Permittee to Reduce, Recycle and/or Reuse on Site Debris, the availability of markets for the Debris Disposed, the size of the Project, and any circumstance beyond the control of the Permittee. If the Director determines that the Permittee has made a good faith effort to comply with this Chapter then the full Performance Security, if applicable, shall be released to the Permittee.

H. If set forth by resolution of the Board of Supervisors, the Permittee shall pay a non-refundable administrative fee sufficient to compensate the County for all expenses incurred in administering the Ordinance.

**8.43.070 Standards, Guidelines, and Criteria.** The Director may establish and/or adopt standards, guidelines, and criteria consistent with this Chapter and reasonably necessary to achieve the objectives of this Chapter.

**8.43.080 Inspections.** The Director may make such inspections as he/she may deem necessary to determine Permittee's compliance with this Chapter.

**8.43.090 Appeals.** Appeals from the rulings of the Director relating to approval of the Debris Recycling Report shall be filed with the El Dorado County Building Appeals Board.

**8.43.091 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 or 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 the fact that one or more sections, subsections, subdivisions,

paragraphs, sentences, clauses, or phrases be declared unconstitutional or 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 30th day of September, 2003.