

ORDINANCE NO. 3389

**CONSTRUCTION AND DEMOLITION WASTE RECOVERY
ORDINANCE**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN
AMENDING THE MARIN COUNTY CODE BY ADDING A NEW CHAPTER 19.07
MANDATING WASTE RECOVERY FOR CERTAIN CONSTRUCTION, DEMOLITION, AND
RENOVATION PROJECTS WITHIN THE COUNTY OF MARIN.**

The Board of Supervisors of the County of Marin does ordain as follows:

SECTION 1 Chapter 19.07 is hereby added to the Marin County Code to read as follows:

**CHAPTER 19.07 RECYCLING AND REUSE REQUIREMENTS FOR
CONSTRUCTION AND DEMOLITION DEBRIS.**

Sections:

- 19.07.010 - FINDINGS
- 19.07.020 - DEFINITIONS
- 19.07.030 - THRESHOLD FOR COVERED PROJECTS
- 19.07.040 - INFEASIBLE EXEMPTION
- 19.07.050 - WASTE MANAGEMENT PLAN (WMP):
- 19.07.060 - SUBMISSION OF RECYCLING/REUSE DOCUMENTATION
- 19.04.070 - COMPLIANCE
- 19.04.080 - ENFORCEMENT
- 19.04.090 - SEVERABILITY
- 19.04.100 - EFFECTIVE DATE

SECTION 19.07.010 FINDINGS

A. The Board of Supervisors of the County of Marin ("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 (base year 1990, state methodology) from landfills by December 31, 2000.

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

C. The County finds that in recent years Construction and Demolition (C&D) debris constituted approximately 12% by weight of the materials landfilled in Marin County and a similarly large portion of the waste stream in the County. These materials have significant potential for waste reduction and recycling.

D. The County finds that reusing and recycling C&D debris is essential to further the County's efforts to reduce waste and comply with AB 939 and other waste reduction goals.

E. The County finds that C&D debris waste reduction and recycling have been proven to reduce the amount of such material in landfills, and be cost effective.

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

SECTION 19.07.020 DEFINITIONS

For the purposes of this Chapter the following definitions shall apply:

A. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the County for the applicable permits to undertake any construction, demolition, or renovation project within the unincorporated County jurisdiction.

B. "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

C. "Construction and Demolition Debris" means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

D. "Conversion Rate" means the rate set forth in the standardized Conversion Rate Table approved by the County pursuant to this Chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.

E. "Covered Project" shall have the meaning set forth in Section 19.04.030 A of this Chapter.

F. "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.

G. "Divert" means to use material for any lawful purpose other than disposal in a landfill or transformation facility.

H. "Diversion Requirement" means the diversion of at least fifty (50) percent of the total Construction and Demolition Debris generated by a Project via reuse or recycling except for noncovered projects pursuant to Section 19.07.030 B, or unless the Applicant has been granted an Infeasibility Exemption pursuant to Section 19.07.040, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the Community Development Director for the Covered Project.

I. "Noncovered Project" shall have the meaning set forth in Section 19.07.030 B of this Chapter.

J. "Project" means any activity, which requires an application for a building or demolition permit, or any similar permit from the County.

K. "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 in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

L. "Renovation" means any change, addition, or modification in an existing structure.

M. "Reuse" means further or repeated use of Construction or Demolition Debris.

N. "Salvage" means the controlled removal of Construction or Demolition Debris from a permitted building or demolition site for the purpose of recycling, reuse, or storage for later recycling or reuse.

O. "Waste Management Plan" (WMP) means a completed WMP form, approved by the County Community Development Agency for the purpose of compliance with this Chapter, submitted by the Applicant for any Covered or Noncovered Project.

P. "Community Development Agency Director" means the designated staff person(s) authorized and responsible for implementing this Chapter.

Q. "AB 939" means the California Waste Management Act of 1989, Public Resources Code Section 40000 et seq.

R. "Person" means a person, corporation, or partnership.

SECTION 19.07.030 THRESHOLD FOR COVERED PROJECTS

A. Covered Projects: Every construction, demolition, and renovation project within the County jurisdiction shall comply with this Chapter. Failure to comply with any of the terms of this Chapter shall subject a person to the enforcement mechanisms set forth in this chapter.

B. Noncovered Projects: Reroofing, drywall, and window replacement projects are exempt from this chapter.

C. Compliance as a Condition of Approval: Compliance with the provisions of this Chapter shall be listed as a condition for initial permitting and as a condition of approval for the final occupancy permit of any building.

SECTION 19.07.040 INFEASIBLE EXEMPTION

Granting of Exemption: If the Community Development Agency Director determines that it is infeasible for the Applicant to meet the Diversion Requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall issue the final occupancy permit if the maximum feasible diversion rate is met.

SECTION 19.07.050 WASTE MANAGEMENT PLAN (WMP):

A. WMP Forms: Applicants for any Covered Project shall complete and submit a Waste Management Plan ("WMP"), on a WMP form approved by the County for this purpose as part of the application packet for the permit. The completed WMP shall indicate all of the following:

- (1) the estimated volume or weight of debris, by materials type, to be generated;
- (2) the estimated volume or weight of such materials that can feasibly be diverted via reuse;
- (3) the estimated volume or weight of such materials that can feasibly be diverted via recycling;
- (4) the vendor and/or facility that the Applicant proposes to use to collect or receive said materials; and
- (5) the estimated volume or weight of materials that will be landfilled.

B. WMP Approval: The WMP form will be reviewed by the Community Development Agency to determine feasibility. Once approved by the Community Development Agency the WMP will be marked "approved" and submitted to the applicant with the construction or demolition permit. Submittal of a WMP form may be waived by the Community Development Agency if a debris box is used and deposited at an approved recycling facility, or if the project is under 500 square feet.

SECTION 19.07.060 SUBMISSION OF RECYCLING/REUSE DOCUMENTATION

A. Documentation: Unless the Applicant has been granted an Infeasibility Exemption pursuant to this chapter, in which case the Diversion Requirement shall be the maximum feasible diversion rate determined by the Community Development Agency Director for the Project, the documentation to be submitted shall include all of the following:

- (1) A Waste Management Plan (if the project exceeds 500 square feet of floor area and does not use a debris box);
- (2) Receipts or reports from the vendor, facility, or waste hauler that collected or received each material showing the volume or weight or volume of the material received. A Vendor, facility, or waste hauler must have a minimum diversion rate of 50% as reported to the Marin Hazardous and Solid Waste JPA to issue complying receipts or reports;
- (3) Any additional information the Applicant believes is relevant to determining its efforts to comply in good faith with this Chapter.

B. Weighing of Wastes: Applicants shall make reasonable efforts to ensure that all C&D debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. If scales are used, such scales shall be 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, the Applicant shall use the standardized Conversion Rates approved by the County for this purpose.

C. Calculating Volume and Weight of Debris: In estimating the volume or weight of materials the Applicant shall use the standardized Conversion Rates approved by the County for this purpose.

D. Monitoring: This Chapter shall be monitored for effectiveness in promoting construction and demolition material recycling and reuse. Reporting will include an analysis of construction and demolition material recycling quantities and opportunities to increase service area coverage and recycling rates. An annual report shall be provided to the Board of Supervisors.

SECTION 19.04.070 COMPLIANCE

A. Approval: The Community Development Agency may withhold issuance of the final occupancy permit for any Covered Project unless and until the Community Development Agency has approved the recycling/reuse documentation. Approval shall not be required, however, where an emergency demolition is required to protect public health or safety. The Community Development Agency shall only approve the recycling/reuse documentation if it indicates that at least fifty (50) percent of all C&D debris generated by the Project has been diverted, has been pursuant to this Chapter, or is deemed exempt in full by the Agency Director.

B. Non-approval: If the Community Development Agency determines that the recycling/reuse documentation is incomplete or fails to indicate that at least fifty (50) percent of all C&D debris generated by the Project will be reused or recycled, unless a lesser amount has been approved pursuant to this Chapter of this ordinance the Agency shall either:

- (1) Deny the final occupancy permit for any building until adequate recycling/reuse documentation has been provided; or
- (2) Seek enforcement pursuant to this Chapter.

SECTION 19.04.080 ENFORCEMENT:

Violation of any provision of this Chapter may be enforced pursuant to Chapter 1.05 of the Marin County Code.

SECTION 19.04.090 SEVERABILITY:

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter 19.07, 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 County 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 provision of this Chapter are declared to be severable.

SECTION II EFFECTIVE DATE AND PUBLICATION

This Chapter shall be and is hereby declared to be in full force and effect for all projects for which a building permit has not been applied for and accepted as complete by the Building

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and Safety Division prior to October 30, 2003 and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

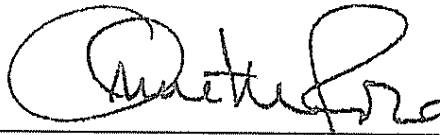
SECTION III VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, held on the 30th day of September 2003, by the following vote:

AYES: SUPERVISORS Susan L. Adams, Harold C. Brown, Jr., Annette Rose

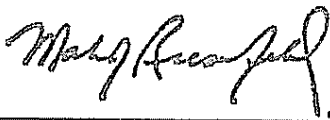
NOES: NONE

ABSENT: SUPERVISORS Steve Kinsey, Cynthia L. Murray



PRESIDENT OF THE BOARD OF SUPERVISORS

ATTEST:



CLERK