

**AN ORDINANCE ADDING CHAPTER 4.38 TO TITLE 4 OF THE ADMINISTRATIVE CODE OF THE COUNTY OF ALAMEDA RELATING TO CONSTRUCTION AND DEMOLITION DEBRIS MANAGEMENT AND GREEN BUILDING PRACTICES FOR CERTAIN COUNTY PROJECTS**

The Board of Supervisors of the County of Alameda ordains as follows:

**SECTION 1**

Chapter 4.38 is added to Title 4 of the Administrative Code of the County of Alameda, to read as follows:

**CONSTRUCTION DEBRIS MANAGEMENT AND GREEN BUILDING PRACTICES**

**Section 4.38.010 Findings**

1. The Board of Supervisors of the County of Alameda hereby finds and declares that:
  - A. The demolition, design, construction, and maintenance of buildings and structures within the County can have a significant impact on the County's environmental sustainability, resource usage and efficiency, waste management, and the health and productivity of residents, workers, and visitors.
  - B. The State of California, through its California Waste Management Act of 1989, requires that each local jurisdiction in the state divert 50% of discarded materials from landfill by December 31, 2000, and thereafter maintain or exceed that diversion rate.
  - C. Every city and county in California, including the County of Alameda, can face fines up to \$10,000 a day for not meeting the above mandated goal.
  - D. The voters of Alameda County, through the Waste Reduction and Recycling Act of 1990, adopted a policy goal to reduce the total tonnage of landfilled materials generated in Alameda County by 75% by the year 2010.
  - E. Based on studies by the Alameda County Waste Management Authority, construction and demolition debris comprises up to 21% of materials disposed in Alameda County landfills.
  - F. Reusing and recycling construction and demolition debris is essential to further the County's efforts to reduce waste and comply with California Waste Management Act of 1989 and the Alameda County Waste Reduction and Recycling Act of 1990.

G. Construction and demolition debris waste reduction and recycling can reduce the amount of such material that is landfilled, increase site and worker safety, and be cost effective.

H. 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, and that for certain Public Works Agency projects it is feasible to divert an average of at least seventy-five (75) percent of construction and demolition debris.

I. "Green" building design, construction, and operation can have a significant positive effect on energy and resource efficiency, waste and pollution generation, and the health and productivity of a building's occupants over the life of the building.

J. Green building benefits are spread throughout the systems and features of the building. Building "green" can include, among other things, the use of certified sustainable wood products; aggressive use of high recycled content products; recycling of waste that occurs during deconstruction, demolition, and construction; enhancement of indoor air quality by selection and use of construction materials that do not have chemical emissions that are toxic or irritating to building occupants; modification of heating, ventilation, and air-conditioning systems to provide energy efficiency and improved indoor air; use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production.

K. The U.S. Green Building Council, developer of the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building Rating System and LEED™ Reference Guide, has become a leader in promoting and guiding green building.

L. Requiring certain County projects to incorporate LEED™ green building measures is necessary and appropriate to achieve the benefits of green building.

M. Construction and demolition debris management and green design, construction, and operation decisions made by the County in the demolition, construction, and remodeling of County buildings result in environmental benefits and cost savings to the County over the life of the buildings. By calling on the County to include green building measures in its own facilities, the Board of Supervisors provides taxpayers a benefit through environmentally friendly, cheaper to operate buildings and simultaneously helps to develop markets for recycled, recyclable, and environmentally sound materials.

N. It is critical to both the economic and environmental health of the County that the County provides leadership to both the private and public sectors in the arena of energy efficiency and "green" construction. The most immediate and meaningful way to do this is to include energy efficiency and green building elements in as many public buildings as feasible.

O. It is in the public interest to address the appropriateness of mandating green building requirements for private projects separately from, and subsequent to, applying such requirements to County Projects. Accordingly, unless and until the Board of Supervisors determines otherwise, the provisions of this Chapter shall not apply to private sector

development, including, but not limited to, joint ventures between the County and a private developer; special use facilities, such as stadiums and fairgrounds; County redevelopment projects; the County's Surplus Property Authority projects; privately developed roads, bridges, and streetlights; and private sector commercial, industrial, and residential construction, demolition, and renovation activities.

#### **Section 4.38.020 Definitions**

A. "Building" means any Structure used or intended for supporting or sheltering any use or occupancy as defined in the California Building Code.

B. "Compliance Official" means the person who is authorized and responsible for implementing this Chapter for any given project. The Director of the General Services Agency, or his/her designee, shall be the Compliance Official for all County Projects, except Traditional Public Works Projects. The Director of the Public Works Agency, or his/her designee, shall be the Compliance Official for all Traditional Public Works Projects.

C. "Construction" means the building of any Building or Structure or any portion thereof.

D. "Construction and Demolition Debris" or "Debris" means used or discarded materials removed from premises during Construction or Renovation of a Structure resulting from construction, renovation, remodeling, repair, or demolition operations on any building, or other structure and shall include, but not be limited to: demolition debris; new construction debris; debris from renovation projects, including tenant improvements and additions; debris from flood control and storm drain construction and; debris from road construction; debris from construction, renovation, or demolition of pump stations and bridges, abutments; earth; and debris from construction, renovation, , or demolition of retaining walls and underground utilities. Construction and Demolition Debris does not include hazardous waste, contaminated earth or soil, and materials without any use or market value even after re-manufacturing.

E. "County Administrator" or "CAO" means the executive officer of the County Administrator's Office of Alameda County.

F. "County Project" or "Project" means any work of Construction, Renovation, or Demolition conducted on County-owned property, which is managed by County personnel from design through construction, including Traditional Public Works Projects. "County Project" or "Project" shall also include any Buildings constructed for the County's use under a build to suit program or project.

G. "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.

H. "Divert" means to use material for any purpose other than disposal in a landfill.

I. "Diversion Requirement" means the percentage of the total Construction and

Demolition Debris generated by a Project that is required to be diverted from landfill under this Chapter.

J. "Estimated Cost of Construction" means the total projected cost of completing a proposed Project.

K. "General Services Agency" or "GSA" means the General Services Agency of Alameda County.

L. "Green Building Practices" means a whole systems approach to the design, construction, and operation of Buildings and Structures that helps mitigate the environmental, economic, and social impacts of Construction, Demolition, and Renovation. Green Building Practices such as those described in the LEED Rating System, recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive environment.

M. "Initiated" means officially identified and fully funded to offset all the costs associated with the project as found on the County Capital Improvement Plan.

N. LEED™ Rating System™ means the most recent version of the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building Rating System™, or other related LEED™ Rating System, approved by the U.S. Green Building Council.

O. "Public Works Agency", or "PWA", means the Public Works Agency of Alameda County.

P. "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.

Q. "Renovation" means any change, addition, or modification to an existing Building or Structure, including, but not limited to, tenant improvements.

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

S. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground.

T. "Traditional Public Works Projects" means heavy construction projects, such as pump stations, flood control improvements, roads, bridges, as well as traffic lights, sidewalks, bike paths and associated infrastructure on County-owned and maintained property.

**Section 4.38.030 Construction And Demolition Debris Management**

1. The Construction and Demolition Debris generated by County Projects Initiated on or after July 1, 2003, shall be diverted from landfill as follows:

A. County Projects (except Traditional Public Works Projects) with a total Estimated Cost of Construction of \$100,000 or greater and County Projects consisting primarily of Demolition with a total Estimated Cost of \$25,000 or greater shall meet the following Diversion Requirements:

1) At least fifty (50) percent of the total Debris generated by the project shall be diverted from landfill via Reuse or Recycling.

B. Traditional Public Works Projects with a total Estimated Cost of Construction of \$100,000 or greater shall meet the following Diversion Requirement:

1) At least seventy-five (75) percent of the asphalt, concrete, and earth Debris generated by the project shall be diverted from landfill via Reuse or Recycling.

2) At least fifty (50) percent of the total of all other Debris generated by the project shall be diverted from landfill via Reuse or Recycling.

3) Debris consisting of hazardous waste, contaminated earth or soil, and materials without any use or market value even after re-manufacturing shall be exempted from the foregoing Diversion Requirements.

**Section 4.38.040 Green Building Practices**

1. All County Projects initiated on or after July 1, 2003, except Traditional Public Works Projects, shall meet a minimum LEED™ "Silver" rating under the LEED Rating System, or a County-approved equivalent.

2. Traditional Public Works Projects: The Public Works Agency shall promptly undertake research to identify suitable mechanisms for applying Green Building Practices to Traditional Public Works Projects. Within twelve (12) months of the effective date of this ordinance, the Director of the Public Works Agency shall submit proposed regulations to the CAO requiring the application of appropriate Green Building Practices to Traditional Public Works Projects.

**Section 4.38.050 Compliance**

1. The County Administrator shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the Diversion Requirements and Green Building Practices stated in this Chapter. The initial rules and regulations shall be promulgated after securing and reviewing comments from affected County agencies and departments, but no later than June 30, 2003. The Director of the General Services Agency and the Director of the Public Works Agency shall jointly submit to the County Administrator an initial set of proposed rules

and regulations pursuant to this Section within 30 (thirty) days of the effective date of this ordinance.

2. The rules and regulations promulgated by the County Administrator's Office under this section shall provide for at least the following:

A. An inflation indexing mechanism to escalate or lower the \$100,000 and \$25,000 thresholds contained in this Chapter;

B. The incorporation of the Diversion Requirements and Green Building Practices of this Chapter into the appropriate design and construction contract documents prepared for the applicable County Projects;

C. The designation of an appropriate Compliance Official(s) who shall have the responsibility to administer and monitor compliance with the Diversion Requirements and Green Building Practices set forth in this Chapter and with any rules or regulations promulgated thereunder, and to make recommendations to the Board of Supervisors concerning the granting of waivers or exemptions from the requirements of this Chapter.

#### **Section 4.38.060 Unusual Circumstances Recognized by the Board of Supervisors**

Compliance with the provisions of this Chapter may be waived in unusual circumstances where the Board of Supervisors has, by resolution, found and determined that the public interest would not be served by complying with such provisions

### **SECTION II SEVERABILITY**

If any chapter, section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, 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 Ordinance or any part thereof. The Board of Supervisors hereby declares that it would have passed each chapter, section, subsection, subdivision, paragraph, sentence, clause, and phrase of this Ordinance irrespective of the fact that one or more chapters, sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or effective. To this end, the provisions of this Ordinance are declared to be severable.

### **SECTION III**

#### **EFFECTIVE DATE**

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the day of April 29, 2003, by the following vote:

AYES: Supervisors: Carson, Haggerty, Lai-Bitker, Miley & President Steele - 5

NOES: None

EXCUSED: None

ABSTAIN: None

*Gail Steele*  
President, Board of Supervisors

ATTEST:  
Crystal Hishida, Clerk  
Board of Supervisors

By: *Rosalinda N. Caballero*  
Deputy

File: 17843\*

Agenda No.: 11

Document No.: 0-2003-63

Approved as to Form  
RICHARD E. WINNIE, County Counsel

By *R. Brane*