

Attachment A

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO
ADDING CHAPTER 16 TO TITLE 6 OF THE YOLO COUNTY CODE REGARDING
CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING AND DIVERSION**

The Board of Supervisors of the County of Yolo, State of California, hereby ordains as follows:

SECTION 1. Purpose and Findings.

The County is committed to protecting the public health, safety, welfare and environment; that in order to meet these goals, it is necessary that the County promote the reduction of solid waste and reduce the stream of solid waste going to landfills; that under California law as embodied in the California Waste Management Act (California Public Resources Code Sections 40000 et seq.), the County is required to prepare, adopt and implement a source reduction and recycling element to reach reduction goals, and is required to make substantial reductions in the volume of waste materials going to landfill, or pay penalties;

The County is also required to divert fifty percent (50%) of materials from landfilling annually, under the threat of penalties. Construction and demolition debris contributes a substantial amount to the landfill, much of which is particularly suitable for recycling.

The Board of Supervisors of the County of Yolo hereby finds that debris from construction and demolition of buildings represents a significant portion of the volume of solid waste presently coming from the unincorporated area of the County, and that much of this debris is particularly suitable for recycling; that the County's commitment to the reduction of waste and to compliance with State law requires the establishment of programs for recycling and salvaging construction and demolition materials; that the Board of Supervisors recognizes that requiring construction and demolition debris to be recycled and reused may in some respects add modestly to project costs and in other respects may make possible some cost recovery and cost reduction; and that it is necessary in order to protect the public health, safety and welfare that this Ordinance is adopted.

SECTION 2. Ordinance 1369 is hereby repealed in its entirety due to a clerical error in the numbering of this Ordinance.

SECTION 3. Chapter 16 is hereby added to Title 6 of the Yolo County Code to read as follows:

Chapter 16

RECYCLING AND DIVERSION OF DEBRIS FROM CONSTRUCTION AND DEMOLITION

Section 6-16.01. Title.

This Chapter shall be known as the "CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING AND DIVERSION ORDINANCE" of Yolo County, and may be so cited.

Section 6-16.02. Definitions.

For purposes of this chapter, the following definitions apply:

(a) Administrative Fee shall mean a non-refundable fee submitted by the applicant to the County as described in Section 6-16.07. Portions of this fee shall be deposited into the County's Division of Integrated Waste Management (DIWM) Recycling Fund and the remaining portions shall be transferred to the Building Division's and Auditor's Office Funds as allocated in the fee section of this Ordinance to cover costs associated with this Chapter.

(b) Applicant shall mean any individual, firm, contractor, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever that applies to the County for the applicable permits to undertake any construction or demolition project within the County.

(c) Construction shall mean the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.

(d) Construction and Demolition Debris shall mean:

(1) Discarded materials generally not considered water soluble and non-hazardous in nature, including but 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;

(2) Remnants of new materials, including but not limited to: cardboard, paper, plastic, wood, and metal scraps from any construction and/or landscape project;

(3) Other non-hazardous wastes that are generated at construction or demolition projects provided such amounts are consistent with best management practices of the industry.

(e) Contractor shall mean any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, demolition, remodeling, renovation, or landscaping service relating to buildings or accessory structures in the unincorporated area of Yolo County.

(f) Demolition shall mean the decimating, razing, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

(g) Deposit shall mean a cash dollar amount provided to the DIWM at the time of submitting the Diversion Plan for those applicants where prior projects have been determined as Good Faith Effort or Non-Compliance status. Refunds of the deposits (without interest) are dependent on the level of compliance with this Chapter as described in Section 6-16.08. Forfeited deposits shall be deposited in the County's DIWM Recycling Fund and will be used to implement the Division's recycling programs.

(h) Designated Recyclable and Reusable Materials shall mean and includes but not limited to:

(1) Corrugated Cardboard (OCC);

(2) Inert materials generally used in construction including but not limited to, asphalt, concrete, rock, stone, mortar and brick;

(3) Metals, including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences;

(4) Roofing materials including wood shingles and shakes as well as asphalt, stone and slate based roofing material;

(5) Salvageable materials and structures, including, but not limited to doors, windows, fixtures, hardwood flooring, sinks, bathtubs and appliances;

(6) Vegetative materials, including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use;

(7) Wallboard materials including gypsum and drywall;

(8) Wood materials, including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted; and

(9) Any other materials that the County determines can be diverted due to the identification of a recycling facility, reuse facility, or market accessible from the County.

(i) Diversion shall mean the use of material for any purpose other than disposal to include but not be limited to reuse and recycling.

(j) Diversion Plan shall mean a completed County-provided form submitted before the issuance of a building and/or demolition permit, approved by the Waste Reduction Manager for the purpose of compliance with this Chapter.

(k) Diversion Report shall mean a completed County provided form submitted quarterly and after demolition or construction, as a precedent to final inspection and issuance of any certificate of occupancy, approved by the Compliance Officer for the purpose of compliance with this Chapter.

(l) Good Faith Effort shall mean and be applicable to projects where the availability of markets for construction and demolition debris were a determining factor in not meeting full compliance and where sufficient evidence of the project through documented efforts, such as weight receipts, demonstrate the applicant attempted to divert construction and demolition debris but did not meet full compliance.

(m) Project shall have the meaning set forth in Section 6-16.03 of this Chapter.

(n) Recycling shall mean 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 a raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(o) Renovation shall mean any change, addition or modification in an existing structure.

(p) Reuse shall mean further or repeated use of construction or demolition debris.

(q) Waste Reduction Manager shall mean the person(s) designated by the Director of the Planning and Public Works Department authorized and responsible for implementing this Chapter.

Section 6-16.03. Applicable Projects.

Projects subject to the requirements of this Chapter include any project which consists of one or more of the following:

(a) Construction of a new agricultural, commercial, industrial or institutional building or structure that is equal to or greater than 5,000 square feet;

(b) Construction of multifamily dwellings, such as duplexes, where two or more units are under construction at a given time or apartment complexes, where three or more units are under construction at a given time;

(c) Construction of new residential dwellings, each dwelling equal to or greater than 2,000 square feet, in a subdivision housing tract where a homebuilder has a construction phase that includes multiple residential lots (two or more) under construction at a given time;

(d) Demolition of a building or structure, or a portion thereof, that is equal to or greater than 1,500 square feet (agricultural, residential, multi-family, commercial, industrial or institutional); and

(e) Renovation, addition or alteration of any agricultural, commercial, industrial, institutional or multifamily building or structure that is equal to or greater than 1,000 square feet.

Section 6-16.04. Exemptions.

The following projects shall not be subject to the provisions of this Chapter:

(a) A project contaminated by hazardous substances or hazardous waste as defined by the state or federal law;

(b) Construction or renovation of one residential dwelling, or two or more residential dwellings where each dwelling in less than 2,000 square feet;

(c) Demolition of a building or structure, or a portion, thereof, that is less than 1,500 square feet;

(d) Emergency work (addition, alteration, construction, demolition, renovation performed in conjunction with an emergency (i.e. fire, earthquake, flood) or a building or structure deemed substandard by the California Building Code through the Chief Building Official); and

(e) Renovation, addition or alteration of any agricultural, commercial, industrial, institutional or multifamily building structure that is less than 1,000 square feet.

Section 6-16.05. Diversion Requirements.

Fifty percent (50%) of construction and demolition debris generated from every applicable construction, renovation, or demolition project shall be diverted from going to landfills by using recycling, reuse and diversion programs. Reports will be required for verification of such activities. Acceptable diversion methods are:

(a) Taking all mixed or segregated construction and demolition debris to the Mixed Construction and Demolition Debris Recycling Facility located at the Yolo County Central Landfill (YCCL), 44090 County Road 28H, Woodland, California 95776, which is an approved facility, meets the diversion requirements of this Ordinance on every load accepted. Other such mixed facilities may be utilized as long as they are County-approved; or

(b) Source separating designated materials, such as cardboard, wood, metals, green waste, wallboard, tile, concrete, and other easily recycled materials, and directing them to recycling facilities, approved by the DIWM, and taking the remainder (but no more than 50% by weight or yardage) to YCCL for disposal.

Section 6-16.06. Reporting Requirements.

(a) The following plan will need to be submitted and approved prior to issuance of a permit:

(1) Every contractor shall submit a properly completed Diversion Plan on a form prescribed by the County, as a requirement of the construction and demolition permit process. The plan can cover multiple building permits for lots where construction activity is occurring at the same time by the same applicant. Separate plans must be submitted for each batch of building permits requested. The Diversion Plan shall identify the materials to be recycled or reused and/or disposed of and shall list facilities and providers to be used. An

administrative fee for each requested permit and the corresponding deposit must be submitted with the Diversion Plan.

(2) Notwithstanding any other provisions of this Chapter, no construction or demolition permit shall be issued for any project as defined in Section 6-16.03 of this Ordinance unless and until the Waste Reduction Manager has approved the Diversion Plan. The Waste Reduction Manager shall only approve a Diversion Plan if he or she determines that it contains all of the information set forth in subsection (a) above. If the Waste Reduction Manager determines that all of the above conditions have been met, he or she shall mark the Diversion Plan "Approved", return a copy of the plan to the applicant, and notify the Building Division that it has been approved.

(3) If the Waste Reduction Manager determines that the Diversion Plan is incomplete he or she shall return it to the applicant marked "Denied" or "Further Explanation Required". The applicant must then submit additional information before the Diversion Plan can be reviewed again and the construction or demolition permit issued. The applicant may resubmit the Diversion Plan within 60 calendar days without forfeiting the administrative fee.

(b) The following reports will need to be submitted and approved prior to issuance of Certificate of Occupancy:

(1) Quarterly reports, due no later than April 30th, July 30th, October 30th and January 30th, will be required as well as a final report due no later than thirty (30) days following the completion of a construction or demolition project, the contractor shall, as a condition of final approval and for issuance of any certificate of occupancy, submit a final Diversion Report to the DIWM that demonstrates compliance with the requirements of this chapter.

(2) The documentation shall consist of photocopies of receipts and weight tags or other records of measurement or equivalent documentation from recycling companies, deconstruction contractors, and landfill and disposal companies. If the Mixed Construction and Demolition Debris Recycling Facility, located at the YCCL, was utilized, corresponding attached receipts will be reflective of automatically meeting the diversion requirements of such load(s).

The contractor's approved Diversion Report shall be completed by recording and confirming the type of debris diverted and the facilities to which it was taken. Receipts from vendors or facilities shall clearly state the project title and date. If the receipt provides information for multiple projects, the project titles and the amounts of materials for each project must be clearly identified. The contractor shall sign the completed Diversion Report to certify its accuracy as part of the documentation of compliance.

(3) All documentation submitted pursuant to this section is subject to verification by the DIWM.

(4) It is unlawful for any person to submit documentation to the DIWM under this section which that person knows to contain any false statements, including but not limited to false statements regarding tonnage of materials recycled or diverted, or to submit any false or fraudulent receipt or weight tag or other record of measurement.

Section 6-16.07. Administrative Fees.

A non-refundable administrative fee of \$300.00, as established by resolution of the County Board of Supervisors, will be charged for each building or demolition permit to cover the costs for all County expenses incurred in administering this Chapter. This fee shall be split between the Division of Integrated Waste Management (\$158.00) and the Building Division (\$142.00).

If a Diversion Plan is re-submitted after 60 calendar days, the original administrative fee is forfeited and an additional administrative fee of \$100.00 per permit will be required prior to

review of the Diversion Plan and issuance of the construction or demolition permit. This additional fee shall also be split between the Division of Integrated Waste Management (\$25.00) and the Building Division (\$75.00).

Section 6-16.08. Deposits, Refunds and Penalties.

(a) Deposits

(1) No deposit is required for first time applicants or for applicants that are in good standing having met Full Compliance on an immediate past project.

(2) A deposit of \$2,500 will be required if the previous project received a determination of Good Faith Effort, based upon quarterly Diversion Reports or if the applicant did not submit required reports. This \$2,500 deposit will apply following a Good Faith Effort determination. Upon the Waste Reduction Manager's determination that the applicant has complied with this Chapter for one consecutive project, the applicant shall not pay a deposit on future plans so long as applicant stays in compliance.

(3) A deposit of \$5,000 will be required if the previous project received a final determination of Non-Compliance. This \$5,000 deposit will apply for two subsequent projects following the Non-Compliance determination. Upon the Waste Reduction Manager's determination that the applicant has complied with this Chapter for two consecutive projects, the applicant shall not pay a deposit on future plans so long as applicant stays in compliance.

(b) Refunds

(1) Section 6-16.08(b) is applicable when projects are subject to either the \$2,500 or \$5,000 Deposit.

(2) Full Compliance: The Waste Reduction Manager will notify both the applicant and Building Division when he or she determines that the diversion requirements have been met. The cash deposit shall be returned in full, without interest, within 30 calendar days of the compliance determination.

(3) Good Faith Effort: If the Waste Reduction Manager determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort to comply with this Chapter. In making this determination, the Waste Reduction Manager, shall consider the availability of markets for construction and demolition debris, the size of the project and the documented efforts of the applicant to divert construction and demolition debris. The applicant and Building Division shall be notified once this determination has been made. A partial (50%) refund of the deposit will be issued to applicant within 30 calendar days of the compliance determination. An applicant that receives a Good Faith Effort determination will be required to post a deposit for future projects in the amount of \$2,500 as described in Section 6-16.08(a)(2) above.

(4) Non-Compliance: If the Waste Reduction Manager determines that the applicant has not made a good faith effort to comply with this Chapter, no refund will be issued. The deposit shall be forfeited entirely for failure to comply with the requirements of this Chapter. Any deposit that is forfeited shall be deposited into the DIWM's Recycling Fund and will be used to implement and promote the Division's recycling programs. An applicant that receives a Non-Compliance determination will be required to post a deposit for future projects in the amount of \$5,000 as described in Section 6-16.08(a)(3) above.

(c) Penalties

(1) For projects not originally subject to a deposit, upon determination of Non-Compliance by the Waste Reduction Manager, a penalty of \$2,500 will be assessed to all construction projects and a penalty of \$5,000 will be assessed to all demolition projects. Final approvals and a Certificate of Occupancy will not be issued until the appropriate penalty has been paid in full as described in this Section and all penalties shall be non-refundable.

Section 6-16.09. Appeal.

(a) Any person wishing to appeal a decision made under this Chapter must submit a written appeal to the Director of Planning and Public Works. Such written appeal must be hand-delivered or placed in the U.S. mail, properly addressed with postage pre-paid, within ten (10) calendar days of the date the written decision is mailed to the applicant.

(b) The appeal shall provide a description of the complaint and decision complained of, the reason(s) alleging that the action or decision should be altered or overruled, and shall be signed by the applicant or their authorized agent.

(c) The Director of Planning and Public Works shall set the appeal for hearing before the Waste Advisory Committee (W.A.C.) within 45 days after the appeal is filed. Upon hearing the matter, the W.A.C. may grant, conditionally grant, or deny the appeal. The decision on the appeal shall be announced at the close of the hearing and shall become final at that time.

Section 6-16.10. Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter. The County Board of Supervisors declares that it would have adopted this Chapter, including every section, subsection, sentence, clause and phrase, irrespective of whether one or more section, subsection, sentences, clauses or phrases is held invalid.

SECTION 4. Effective Date and Notice.

This Ordinance shall take effect sixty (60) days after its adoption, and within fifteen (15) days after its passage shall be published at least once in The Enterprise, a newspaper of general circulation, printed and published in the County of Yolo.

PASSED AND ADOPTED by the Board of Supervisors of the County of Yolo, State of California, this ___ day of _____, 2008, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Attest:
Ana Morales, Clerk
Board of Supervisors

By _____
Deputy
(Seal)

Duane Chamberlain, Chairman
Board of Supervisors

Approved as to Form:
Robyn Truitt Drivon, County Counsel

By _____
Hope P. Welton, Deputy