

ORDINANCE NO. 2002 - 043

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADDING ARTICLE 3 TO DIVISION 3 OF TITLE 4 OF THE ORANGE COUNTY CODE AS ADOPTED BY THE CITY OF ALISO VIEJO, REGARDING CONSTRUCTION OR DEMOLITION DEBRIS

WHEREAS, pursuant to Ordinance No. 2001-001, the City of Aliso Viejo ("City") adopted, by reference, the Codified Ordinances of the County of Orange ("Code") as the City's ordinances; and

WHEREAS, Title 4, Division 3 of the Code regulates the storage, removal, transportation and disposal of solid waste; and

WHEREAS, the Code does not currently require the recycling or reuse of construction or demolition debris; and

WHEREAS, the volume of construction or demolition debris going to the landfills available to the City constitutes a threat to the public health, safety and welfare; and

WHEREAS, the State of California, through the California Waste Management Act (California Public Resources Code Section 40000 et seq.), has mandated that cities in California make substantial reductions in the volume of waste material going to the landfills of this State; and

WHEREAS, the adoption of a construction or demolition debris ordinance is necessary to protect the public health, safety and welfare and to achieve the goals of the California Waste Management Act.

THE CITY COUNCIL OF THE CITY OF ALISO VIEJO DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Article 3 of Division 3 of Title 4 of the Codified Ordinances of the County of Orange, as adopted by the City of Aliso Viejo pursuant to Ordinance No. 2001-001, is hereby enacted to read in its entirety as follows:

"ARTICLE 3. CONSTRUCTION OR DEMOLITION DEBRIS

Sec. 4-3-148. Findings and Purpose

The City Council of the City of Aliso Viejo hereby finds and determines that:

(a) As recognized in the California Waste Management Act, the volume of solid waste that is currently being deposited in the landfills of this State significantly exceeds the sustainable capacity of the existing and reasonably

available future landfills and waste disposal sites, and the continuation of this flow of solid waste, unabated, to the landfills of this State constitutes a significant threat to the health, safety and welfare.

(b) In order to protect the health, safety and welfare of its residents, and in order to achieve the goals of the California Waste Management Act, it is necessary for the City to promote, where feasible, the recycling of solid waste in the City and to thereby reduce the amount of solid waste deposited in landfills.

(c) Debris from the construction or demolition of buildings and structures within the City represents a significant portion of the volume of solid waste from the City that is deposited in the landfills available to the City. Construction or demolition debris represents approximately 20% of the waste tonnage currently being deposited in landfills or other waste disposal sites annually from the City.

(d) Debris from the construction or demolition of buildings and structures within the City is particularly well suited for recycling or reuse, and requiring the recycling or reuse of such material will significantly reduce the volume of solid waste from the City that is deposited in the landfills available to the City.

(e) It is necessary, therefore, in order to protect the health, safety and welfare, and to help achieve the goals of the California Waste Management Act, for the City to adopt the following regulations requiring the recycling of construction or demolition debris

Sec. 4-3-149. Definitions

For purposes of this article the following definitions 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 City for the applicable permits to undertake a construction, remodeling or demolition project within the City.

(b) "Contractor" means 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 or owner-builder) any construction, remodeling or demolition project in the City.

(c) "Construction, remodeling or demolition project" means the erection or demolition of or the making of changes to any building, structure or landscaping which generates construction or demolition debris.

(d) "Construction or Demolition Debris" means any discarded materials generally considered to be not water soluble and non-hazardous in nature,

including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction, remodeling or destruction of a structure as part of a construction, remodeling or demolition project or from the renovation of a structure and/or landscaping, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction, remodeling or demolition project.

Without limitation due to enumeration, construction or demolition debris includes the follow categories of material:

- (1) Masonry building materials including all products generally used in construction including, but not limited to asphalt, concrete, rock, stone and brick.
- (2) Wood materials including any and all dimensional lumber, fencing or construction wood.
- (3) Vegetable 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.
- (4) Metals including all metal scrap such as, but not limited to, pipes, siding, window frames, door frames and fences.
- (5) Roofing materials including wood shingles as well as asphalt, stone and slate based roofing material.
- (6) Salvageable materials includes all salvageable materials and structures including, but not limited to wallboard, doors, windows, fixtures, toilets, sinks, bath tubs and appliances.
- (7) Clean cardboard, paper, plastic, wood, and metal scraps from any construction, remodeling or demolition project.
- (8) Non-construction and demolition debris wood scraps.
- (9) De minimis amounts of other non-hazardous wastes that are generated at construction, remodeling or demolition projects provided such amounts are consistent with best management practices of the industry.
- (10) Any other construction or demolition debris that is non-hazardous and available for recycling or reuse.

- (e) "Covered project" means any construction, remodeling or demolition project that requires a building or demolition permit and is not an exempt project.
- (f) "Exempt project" means those construction, remodeling or demolition projects identified in Section 4-3-156.
- (g) "Recycling, reuse or divert" means the process of collecting, sorting, cleansing, treating, or reconstituting materials that would otherwise become solid waste, and returning them to economic use in the form of material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

Sec. 4-3-150. Minimum Construction or Demolition Debris Diversion Requirements

Every covered project shall recycle, reuse or divert from the landfills or disposal sites fifty percent (50%), measured by tonnage, of all construction or demolition debris generated from the project. The fifty percent (50%) requirement shall apply separately to the demolition and the construction/remodeling portion of projects involving both demolition and construction/remodeling.

Sec. 4-3-151. Condition Precedent to Issuance of Building or Demolition Permit

As a part of any application for, and prior to the issuance of, any building or demolition permit for a covered project, every applicant shall submit to the Building Official a properly completed "Recycling and Waste Reduction Form," on a form as prescribed by the Building Official. The form shall contain an accurate estimate of the tonnage or other specified units of construction or demolition debris to be generated from the proposed construction, remodeling or demolition project. An applicant shall not be issued a building or demolition permit until the Building Official accepts the Recycling and Waste Reduction Form as complete and accurate.

Sec. 4-3-152. Deposit Required

As a part of any application for, and prior to the issuance of, any building or demolition permit for a covered project, every applicant shall post a cash deposit in the amount of fifty dollars (\$50.00) for each estimated ton of construction or demolition debris, but not less than one thousand five hundred dollars (\$1,500.00). The deposit or cash bond shall be returned, without interest, in total or in proportion, upon proof to the satisfaction of the Building Official, that no less than the required percentage of tons of construction or demolition debris generated by the project has been recycled, reused or diverted. If a lesser percentage of tons than required is recycled, reused or diverted, a proportionate share of the deposit will be returned. The deposit shall be forfeited entirely if there is a failure to comply with the requirements of this article.

Sec. 4-3-153. Administrative Fee

As a part of any application for, and prior to the issuance of, any building or demolition permit for a covered project, every applicant shall pay to the City a fee sufficient to compensate the City for all expenses incurred in administering this article. The amount of this fee shall be determined by a resolution of the City Council.

Sec. 4-3-154. On Site Practices

During the term of any covered project, the applicant or contractor shall recycle, reuse or divert the required percentages of construction or demolition debris, and keep records thereof in tonnage or in other measurements approved by the Building Official that can be converted to tonnage. The Building Official shall evaluate and monitor each project to gauge the percentage of construction or demolition debris recycled, reused or diverted from the project. The required minimum percentages of the construction or demolition debris will be measured separately with respect to the demolition segment and the construction segment of a project where both demolition and construction is involved.

Sec. 4-3-155. Reporting

Within sixty (60) days following the completion of any covered demolition project, and again within sixty (60) days following the completion of any covered construction/remodeling project, the applicant or contractor shall submit under penalty of perjury, and as a condition precedent to final inspection and issuance of any certificate of occupancy, documentation to the satisfaction of the Building Official to establish compliance with the requirements of Section 4-3-150. The documentation shall consist of a final completed "Recycling and Waste Reduction Form" showing actual data of tonnage of materials recycled, reused or diverted, supported by originals or certified photocopies of receipts and weight tags or other records of measurement from recycling companies and/or landfill and disposal companies. Receipts and weight tags will be used to verify whether materials generated from the site have been or are to be recycled, reused or diverted. To the extent practicable, all construction or demolition debris shall be weighed by measurement on scales that comply with all regulatory requirements for accuracy and maintenance. The knowing submittal of false data shall constitute a violation of this article and may constitute perjury.

If a project involves both demolition and construction, the report and documentation for the demolition project must be submitted and approved by the Building Official before issuance of a building permit for the construction/remodeling project. In the alternative, the permittee may submit a letter stating that no construction or demolition debris was generated from project. In which case, this statement shall be subject to verification by the Building Official.

Any deposit posted pursuant to Section 4-3-152 shall be forfeited if the permittee does not meet the timely reporting requirements of this section.

Sec. 4-3-156. Exempt Projects.

The diversion and reporting requirements of this article shall not apply to construction, remodeling or demolition projects which involve less than 5,000 square feet or the total estimated costs of which are less than \$50,000.00. However, applicants or contractors working on exempt projects shall attempt to recycle, reuse or divert as much construction or demolition debris as practicable.

Sec. 4-3-157. Violation a Public Nuisance

Each violation of the provisions of this article shall constitute a public nuisance, and may be subject to abatement and/or administrative, civil or criminal penalties. The costs of any abatement shall be a lien upon the property involved.

Sec. 4-3-158. Penalties

In addition to the remedies available under Sections 4-3-152 and 4-3-157, each violation of the provisions of this article shall constitute a misdemeanor, and shall be punishable by imprisonment in the county jail for not to exceed six (6) months, or by a fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment. Each day that a violation continues shall be deemed a new and separate offense."

Section 2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this ordinance, 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 ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 3. The City Clerk shall certify the adoption of this ordinance and shall cause the same to be posted or published as required by law.

STATE OF CALIFORNIA)

COUNTY OF ORANGE)

CITY OF ALISO VIEJO)

I, DEBBIE A. LEE, CMC, City Clerk of the City of Aliso Viejo, California, do hereby certify that Ordinance No. 2002-043 had its first reading on December 4, 2002 and had its second reading on January 15, 2003 and was duly and regularly adopted by the City Council of the City of Aliso Viejo at a regular meeting of said Council thereof, held on the 15th day of January, 2003, by the following vote:

AYES: Ficke, Phillips, Vali-Cave, Warkomski, Mayor Pickett-Adams

NOES: None

ABSTAIN: None

ABSENT: None


Debbie A. Lee, CMC, City Clerk