

**BROWARD COUNTY, FLORIDA**

**ORDINANCE NO. 2026-\_\_\_\_**

**AN ORDINANCE OF BROWARD COUNTY ESTABLISHING A DIRECT HAUL LANDFILL DISPOSAL BAN ON RESTRICTED CONSTRUCTION AND DEMOLITION (C&D) DISPOSAL MATERIALS; PROVIDING FOR DEFINITIONS; PROVIDING FOR CHANGES TO FEES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, AND EFFECTIVE DATE**

**WHEREAS**, Section 403.706, Florida Statutes (F.S.), requires each county to implement a recycling program and achieve a 75% recycling goal; and

**WHEREAS**, F.S. § 403.706 Local Government Solid Waste Responsibilities, authorizes local governments to adopt ordinances, regulations, codes, or issue permits related to waste collection and recycling under their home rule authority; and

**WHEREAS** the Florida Department of Environmental Protection estimates that almost twenty-five percent (25%) of Florida's total Municipal Solid Waste (MSW) stream is comprised of construction and demolition (C&D) debris; and

**WHEREAS**, Broward County is committed to promoting sustainability, resource conservation, and the reduction of waste, and believes that a construction and demolition ordinance is a critical component of achieving these goals; and

**WHEREAS**, this Ordinance is adopted pursuant to the County's constitutional and statutory home rule authority, including its authority to regulate solid waste management, protect the public health, safety, and welfare, and conserve limited landfill capacity; and

**WHEREAS**, F.S. Section 125.01, authorizes counties to provide for and regulate the collection and disposal of solid waste and to require persons within the county to make arrangements for the proper disposal of such waste; and

**WHEREAS**, the County exercises this authority to ensure that construction and demolition (C&D) debris is managed and handled in a manner consistent with state law and the County's local public interest objectives; and

**Commented [TB1]:** Whereas statements are just placeholders and will be developed with input from SWA Legal, the County, and/or local government adopting the ordinance.

**WHEREAS**, state law further supports local government action to increase the recovery, processing, and diversion of construction and demolition debris; and

**WHEREAS**, section 403.707, Florida Statutes, provides that, to the extent economically feasible, all construction and demolition debris must be processed prior to disposal at a permitted materials recovery facility or a permitted Disposal Facility; and

**WHEREAS**, this statutory requirement reflects the State of Florida's policy preference for processing and recovery of C&D debris rather than direct landfilling and establishes a clear legal foundation for the County to adopt strengthened local requirements governing the diversion and management of recoverable construction and demolition materials and,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:**

#### **SECTION 1. SHORT TITLE**

This Ordinance shall be known as the **Broward County Construction & Demolition (C&D) Landfill Ban Ordinance**.

#### **SECTION 2. DEFINITIONS**

For the purposes of this Ordinance, the following terms shall have the meanings set forth below:

**"Alternative Daily Cover (ADC)"** shall mean the fines fraction and Recovered Screened Materials, consisting of soil and other small materials, derived from the processing or recycling of construction and demolition debris, other than the mandatory six (6) inches of earthen soil, that are placed on the active working face of a landfill at the end of each operating day to control vectors, fires, odors, blowing litter, and animal scavenging in accordance with Florida Administrative Code Rule 62-701.500.

**"Construction and Demolition (C&D) Debris"** shall mean solid waste generated by or resulting from construction or demolition-related activities, including, but not limited to, building, construction, deconstruction, demolition, improvement, reconstruction, remodeling, renovation, repair, or site clean-up.

**"County Administrator"** shall mean the County Administrator of Broward County or their designee.

**"Department Authority"** shall mean the individual, office, or administrative entity designated by the Broward County to administer and interpret this Ordinance, including any responsibilities related to permitting, oversight, and compliance.

**Commented [SL2]:** Used County Administrator only so this is not needed unless changed

**“Direct Haul”** shall mean the transportation of Restricted C&D Disposal Materials directly from the point of generation to a landfill or waste to energy Disposal Facility without first being delivered to a processing, sorting, donation, Salvaging, or materials recovery facility.

**Commented [TB3]:** May need to consider how to handle material that goes to a transfer station and then out of county.

**“Disposal Facility”** shall mean any facility, landfill, incinerator, or other site at which solid waste or C&D debris is permanently disposed of, destroyed, or otherwise discarded, including landfills and waste-to-energy facilities. For purposes of this Ordinance, waste-to-energy facilities shall be considered Disposal Facilities and shall not be considered recycling, recovery, or diversion facilities.

**“Processed Residuals”** shall mean the portion of byproduct waste material generated after a C&D recycling facility has sorted and/or processed C&D Debris at their facility with the intent to maximize the amount of C&D materials recovered and minimize the amount remaining to be sent to landfill or waste to energy disposal. Processed Residuals may include unrecoverable C&D Debris.

**“Recycling”** shall have the meaning set forth in Florida Administrative Code Ch. 62 701: the process by which solid waste materials are collected, separated, processed, and returned to use in the form of raw materials or products.

**“Restricted C&D Disposal Materials”** shall mean materials that are generated and prohibited from direct disposal at a landfill under this Ordinance due to the availability of existing viable end markets and the ability of such materials to be recovered using currently available reuse, recycling, and salvaging processing technologies, including:

- Asphalt
- Brick
- Cardboard
- Cinder blocks
- Clean concrete
- Clean wood/untreated lumber
- Metals (ferrous and non-ferrous)
- Roofing materials (tiles)
- Rigid plastics
- Wooden pallets

**Commented [TB4]:** May need to consider not targeting roofing and rigid plastic materials.

**“Reuse”** shall mean the subsequent use of C&D Materials in their original form or with minimal processing for the same or similar purpose.

**“Salvage”** shall mean controlled removal of building components or materials for Reuse, resale, or donation prior to Recycling or disposal.

**“Source-separation”** shall mean the act of separating materials by type at the point of generation for Reuse, Salvage, Recycling for delivery to markets, to be transformed into raw material for new, reused, or reconstituted products.

### SECTION 3. DESIGNATION OF RESTRICTED C&D DISPOSAL MATERIALS LIST

#### A. Restricted C&D Disposal Materials

The Restricted C&D Disposal Materials list identifies those materials, as set forth in the Definitions section of this Ordinance, that are capable of reuse, salvage, recycling, or other diversion from disposal. Restricted C&D Disposal Materials are prohibited from Direct Haul to any landfill or Disposal Facility.

#### B. Authority to Modify

The Restricted C&D Disposal **Materials list as defined herein shall be reviewed annually and updated as needed by the County Administrator** to adjust for changes in local recycling and reuse marketplaces and be published on the Broward County website. **The County Administrator shall have the ability to update the Restricted C&D Disposal Materials list administratively, on an annual basis, without requiring an amendment to this ordinance.**

**Commented [TB5]:** Policy decision as to whether the list of Restricted C&D Materials needs to be updated via an ordinance amendment vs administratively on an annual basis.

### SECTION 4. STANDARDS GOVERNING DISPOSAL OF C&D DEBRIS

#### A. Applicability

The provisions apply to all C&D projects and activities within Broward County that generate Restricted C&D Disposal Materials, unless otherwise exempted. The requirements apply to all contractors, subcontractors, property owners, Disposal Facility operators, and entities engaged in C&D work within Broward County, including public and private projects, unless expressly exempted by law.

#### B. Prohibition

Restricted C&D Disposal Materials generated within Broward County shall not be Direct Hauled, as defined herein, to any Disposal Facility. Materials eligible for Reuse or Salvage shall be handled in a manner that preserves their value and maximizes opportunities for beneficial use. Remaining Restricted C&D Disposal Materials that are not reused or salvaged shall not be directly hauled for disposal and must be managed in compliance with this Ordinance.

#### C. Eligibility and Acceptance

Landfill and waste-to-energy disposal is limited to Processed Residuals, materials that do not meet the definition of Restricted C&D Disposal Materials, and materials specifically authorized by the County under an approved exemption, as listed in Section 5. No landfill or Disposal Facility operating within Broward County shall knowingly accept Restricted C&D Disposal Materials that are Direct Hauled, as defined herein, from a property owner, contractor, subcontractor, hauler, entity, or job site.

Nothing in this Ordinance shall be construed to require any recycling, recovery, or solid waste facility to accept materials in violation of its operating permit or established acceptance standards.

## SECTION 5. EXEMPTIONS OF RESTRICTED C&D DISPOSAL MATERIALS

Any person claiming an exemption under this section shall declare and certify the applicable exemption at the time materials are delivered for disposal. False certification or misrepresentation of an exemption shall constitute a violation of this Ordinance. Disposal Facilities may rely on generator or hauler certifications, load descriptions, visual inspection, or written authorization issued by the County. Disposal Facilities are not required to accept loads for which an exemption cannot be readily verified at the time of delivery. The following materials and circumstances are exempt from the restrictions on direct hauling set forth in this Ordinance:

1. **Non-recoverable Materials.**

Restricted C&D Disposal Materials that are contaminated, coated, painted, stained, or otherwise contain hazardous or non-recoverable constituents that prevent safe reuse, salvage, or processing. Materials shall not be intentionally altered for the purpose of qualifying for this exemption.

2. **Emergency Conditions.**

Demolition or construction activities undertaken to protect public health or safety during an emergency, as determined by the County Administrator.

3. **Declared Disaster Events.**

Materials generated during a declared local or state emergency resulting from a natural disaster, for the duration designated by the County Administrator.

4. **Asbestos-Containing Materials.**

Restricted C&D Disposal Materials that contain greater than one percent (1%) asbestos, as determined by a state-licensed Asbestos Consultant or Asbestos Contractor, and that are not intended for further use, including both friable and non-friable asbestos-containing materials as defined by Florida Statute § 469.001 and Florida Administrative Code Rule 62-257.200.

5. **Fire, Flood, or Disaster Debris.**

Materials generated as a result of damage caused by fire, flood, or other natural disasters where diversion is impracticable or unsafe, as determined by the County Administrator.

6. **Non-Structural and Minor Work.**

Materials generated from work that does not involve structural modification of a building and that produces only incidental amounts of Restricted C&D Disposal Materials.

7. **De Minimis Quantities.**

Trace or incidental amounts of Restricted C&D Disposal Materials that cannot reasonably be separated shall not constitute a violation, as determined by the Disposal Facility or the County Designee.

**Commented [SL6]:** Similar to Seattle

In practice, the exemption is used to allow:

- Incidental C&D material mixed into otherwise allowable waste streams
- Trace or de minimis amounts that cannot reasonably be separated
- Small homeowner or DIY loads where recovery infrastructure is impractical

This approach is consistent with Seattle's broader C&D regulatory framework, which emphasizes facility qualification and job-site scale requirements rather than rigid material thresholds

**Commented [SL7R6]:** Other options for smaller exemption thresholds:

- 500 lbs per load- a cutoff that roughly corresponds to a pickup truck bed load
- 1,000 lbs per load- more lenient
- 2 cubic yards per load- volume equivalent sometimes used instead of weight
- Some programs combine both: e.g., *under 500 lbs AND under 1 cubic yard*

OR  
"Residential generator"- material generated from a single-family or duplex home by the occupant/owner

"Owner-occupant"- the person doing work must live in the home

"Non-commercial activity"- the work was not done by a licensed contractor for pay.

Some explicitly exclude contractors working on residential jobs from the homeowner exemption

Massachusetts (MassDEP)

Exempts loads under 1 cubic yard or from residential projects under a certain size

Connecticut

Small quantity exemptions tied to residential non-commercial source

Rhode Island

500 lb per load threshold frequently cited

Counties in MD, VA

Often use "self-haul residential" as the exempting category

8. **Permit-Exempt Work.**

Materials generated from activities for which a building or demolition permit is not required under applicable law.

**SECTION 6. ENFORCEMENT, PENALTIES, AND APPEALS**

**A. ENFORCEMENT**

Violations of this Ordinance shall be subject to enforcement as follows:

1. Any person who violates this section, including but not limited to contractors, subcontractors, property owners, Disposal Facility operators, and entities shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250.00) per violation.
2. Any false statement, misrepresentation, or certification made to claim an exemption under this Ordinance shall constitute a separate violation.
3. Each separate act, load, delivery, or acceptance of Restricted C&D Disposal Materials in violation of this section shall constitute a separate and distinct offense.
4. The County may enforce this section through notices of violation, administrative citations, or any other remedies authorized by law.
5. Nothing herein shall limit the County's authority under Chapter 27, Code of Broward County, Florida, or Section 125.01, Florida Statutes.

**Commented [SL8]:** Recommend not adding in inspection authority here. Authority is already established in section 27, which this ordinance will go under. Seattle and other peer cities do it this way as well.

**Commented [SL9]:** Based off Seattle's C&D Disposal ban. Civil infractions backed by ordinary evidence standards (no Prima Facie portion).

**Commented [SL10]:** \$250 cap from Broward existing code violation structure for chapter 27 - concerns that this may be too low. Will need to discuss with County if they want to go outside of their existing penalty or want to word it to include per ton or something that can bolster the disincentive.

**Commented [TB11]:** Policy decision on how much to charge as civil penalty

**B. APPEAL PROCESS**

Any person or entity receiving a Notice of Violation or administrative fine may request an administrative hearing before a designated hearing officer or special magistrate within fifteen (15) days of receipt of the Notice of Violation. The hearing officer or special magistrate shall:

1. Conduct a hearing within thirty (30) days of the appeal request
2. Provide the appellant an opportunity to present evidence and testimony
3. Issue a written decision within thirty (30) days of the hearing

**C. ALTERNATIVE REMEDIES**

Nothing in this Ordinance shall preclude the County from seeking alternative or additional remedies available under law, including injunctive relief, civil penalties, or other legal or equitable relief.

**SECTION 7. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 8. CONFLICTS**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 9. INCLUSION IN CODE**

The provisions of this Ordinance shall be included in the Broward County Code of Ordinances and may be renumbered or re-lettered to accomplish such inclusion.

**SECTION 10. EFFECTIVE DATE**

This Ordinance shall become effective upon filing with the Department of State.

**PASSED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2026.

**ATTEST:**

\_\_\_\_\_

Broward County Administrator

**BROWARD COUNTY, FLORIDA**

By: \_\_\_\_\_

Chair, Board of County Commissioners

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

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County Attorney