



Zero Waste Commission

CONSENT CALENDAR

October 27, 2026

To: Honorable Mayor and Members of the City Council
From: Zero Waste Commission
Submitted by: Steven Sherman, Zero Waste Commission Chair
Subject: Enforceable Mechanism for Berkeley Green Code Compliance

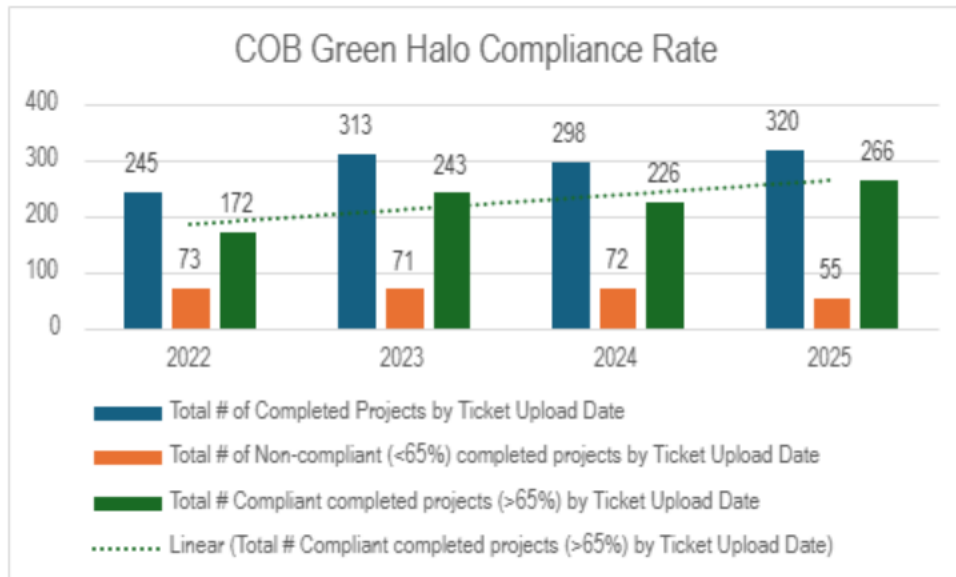
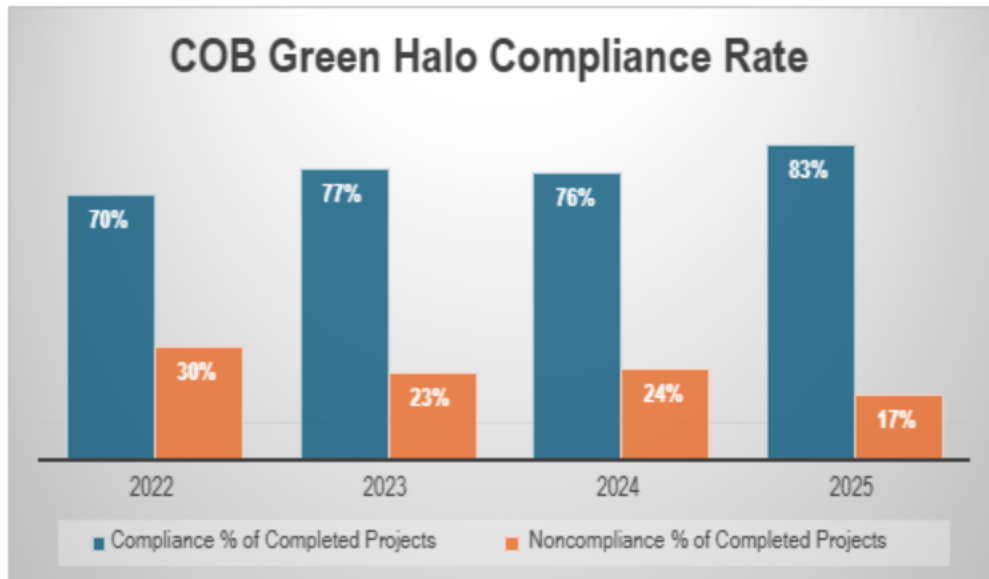
RECOMMENDATION

Recommend Council to direct the City Manager to refer Public Works Zero Waste staff and Planning, Safety and Building, Energy and Sustainability and Green Building staff work together to develop recommendations to implement a clear path to enforcement for non-compliance with Berkeley Green Code (BMC 19.37) Construction and Demolition (C&D) waste diversion requirements, including the possibility of fines and citations and other mechanisms to increase compliance.

SUMMARY

Compliance with Berkeley Green Code's more stringent amendment to the California Green Building Standards Code to recycle 100% of asphalt and concrete instead of the States requirement of 65%, relies on self-reporting through Green Halo. Self-reporting has resulted in fraudulent ticket uploads, poor sorting, and repeated noncompliance. As a result, 17% of projects in 2025 failed to meet code requirements but, the property owners, developers or contractors were not penalized.

Staff have diligently worked to educate and build relationships with contractors over the past three years and compliance has increased steadily. However, staff have identified approximately 40 offenders who have repeatedly been non-compliant for the past decade. With no clear path for penalization, staff are unable to simply encourage those bad actors into compliance.



C&D debris is one of the largest sources of material self-hauled to the Transfer Station, and a significant driver of greenhouse gas emissions and local pollution, particularly affecting low-income and minority communities. Strong enforcement is essential to advancing Berkeley's climate and equity goals. Researching and implementing an effective path to enforcement will streamline the process of meeting diversion requirements and make it easier for staff to hold contractors and haulers accountable.

FISCAL IMPACTS OF RECOMMENDATION

Staff in the Zero Waste Division of the Public Works Department, in conjunction with the Planning Department will research the fiscal impacts for the implementation of a menu of potential enforcement options and develop an associated cost model for each option. Assessment of these Fiscal Impacts will require minimal staff time.

CURRENT SITUATION AND ITS EFFECTS

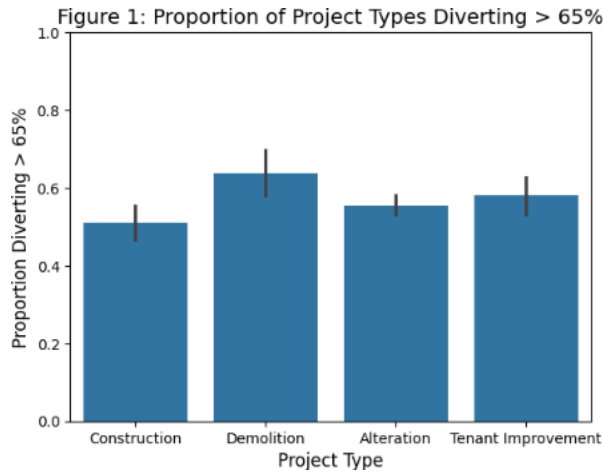
This C&D enforcement referral is a Zero Waste Strategic Plan Priority Project, advancing the City's goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

Construction waste diversion is the process of redirecting waste materials generated from C&D debris away from landfills, toward salvage, recycling, and composting.

Berkeley Green Code diversion requirements were adopted in the Berkeley Municipal Code as Chapter 19.37 in 2025. Chapter 19.37 requires that 65% of construction and demolition (C&D) material be diverted from landfill, and 100% of excavated soil, concrete, and asphalt. Reducing the amount of C&D material that goes to landfill is essential to reducing associated GHG emissions, decreasing land use needed for landfills, and reducing environmental degradation.

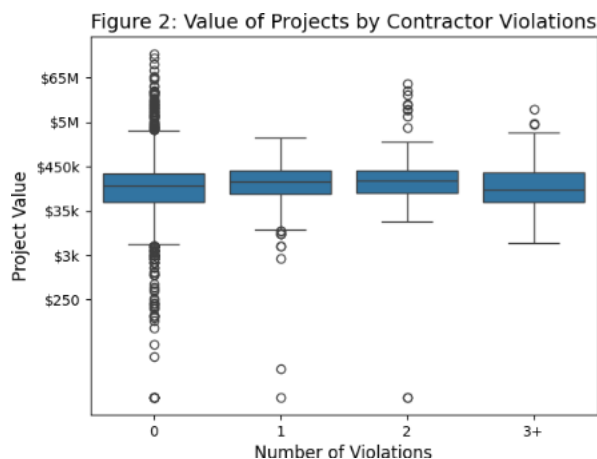
Because there is no consequential mechanism outlined in the Berkeley Municipal Code to provide guidance in regard to penalizing non-compliant contractors, staff have difficulty when it comes to ensuring contractors and haulers comply with diversion requirements. To understand diversion levels in Berkeley, staff rely on self-reporting from contractors on Green Halo, a C&D debris diversion tracking platform. Common issues surrounding compliance include:

1. Improper source separation to the extent that it impedes meeting C&D debris diversion requirements.
2. Uploading fraudulent weight tickets to the Green Halo platform.
3. Uploading weight tickets in an untimely manner.
4. Repeated non-compliance beyond three violations.



As a result, 17% of projects in 2025 failed to meet Berkeley Green Code (BMC 19.37) requirements. Figure 1 displays the rates by project type for all registered projects in the database since 2012. Construction projects tend to divert the least amount of debris, while stand-alone demolition projects tend to divert the most.

Proper sorting and bagging ensure that C&D debris remains uncontaminated. Source separation is particularly important for materials like cement and asphalt so that these waste streams can achieve their required 100% diversion requirement. Many contractors transport C&D debris, mixed with residential waste, in black plastic bags—leading to recyclable debris being coded as landfill, leading to projects failing to achieve the 65% C&D diversion requirement. Miscoded tickets also prevent staff from verifying data, leading to unreliable documentation surrounding C&D debris diversion and potential missed opportunities to increase diversion.



The biggest area where diversion could improve is by penalizing repeat offenders. Over 40 contractors, who have repeatedly been out of compliance annually for over a decade, have been identified by staff. Contractors often attempt to reuse or tamper with weight tickets, causing staff to spend extra time scrutinizing each weight ticket. Some claim to have no weight tickets because the amount hauled to a transfer station was too minimal to be measured, leading to the improper disposal of C&D material that could have been diverted from landfill. Projects taken on by repeat offenders vary in size, illustrated by Figure 2, but the most problematic repeat offenders are those with high-value projects that produce a significant amount of C&D material.

BACKGROUND

The City requires that all construction, demolition, and some remodel projects submit a Construction Waste Management Plan (CWMP) that complies with its zero-waste requirements (Berkeley Green Code BMC 19.37 and California Green Building Standards Code Sections 4.408.2 and 5.408.1.1). Besides CWMP, all contractors are required to upload C&D debris weight tickets to the Green Halo platform. These weight tickets include information on the tons debris diverted from landfill and quantify project materials which have been recycled or reused. Staff also host office hours at the Permit Service Center on Tuesdays and Thursdays, allowing any contractors who are having issues with Green Halo to consult with Zero Waste staff first-hand and address their issues.

Zero Waste staff have been working on launching educational awareness campaigns to further assist contractors lacking experience with the Green Halo platform, and to encourage onboarding onto the Green Halo platform. Staff also conduct random site inspections, to ensure that projects comply with state requirements, allowing for interventions and flexibility when necessary. Additionally, Zero Waste staff participate in Design-Stage Round Table reviews, and Field Inspection Project Kickoff meetings, to provide notice of projects' Berkeley Green Code (BMC 19.37) requirements.

Penalizing repeat offenders for non-compliance will level the playing field and encourage development by contractors acting in good faith. The 65% diversion requirement is already embedded in the Berkeley Green Code and applies to most permitted construction and demolition projects in the City. Therefore, enforcing the requirement should not materially slow development or reduce project feasibility.

On June 19, 2025, the Zero Waste Commission authorized its Green Building Subcommittee to write and submit this referral to the City Council to request the City Manager refer the Zero Waste Division of the Public Works Department, and the Building and Safety Division, Energy and Sustainability and Green Building Program Management staff from the Planning Department to research and recommend best practices to codify enforcement mechanisms for improving compliance with state and city-mandated C&D debris diversion requirements.

Action Taken: M/S (Chrise/Barun) to approve the Green Building Ordinance. Ayes: Unanimous; Abstain: None; Absent: Layla Dargahi

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Lack of effective diversion can be damaging to local communities. The construction industry is considered to be the primary contributor to landfill material; in the United States, 67% of all solid waste is generated by the C&D industry alone (Chen et al., 2021). C&D debris is also the primary cause of environmental pollution; debris that ends up in landfill contains inorganics, heavy metals, organics, pesticides, and oils that leach into the landscape and contaminate soil and groundwater (Chen et al., 2021). Improper C&D debris salvaging also leads to indirect environmental damage, such as consumption of usable land, energy and non-energy resource consumption, resource depletion, air pollution, noise pollution, water pollution, and more (Chen et al., 2021).

Inadequate diversion introduces health-harming pollutants to the environment, as wind carries particles from landfills into neighboring communities. As landfills expand, substances like silica, asbestos, heavy metals, and volatile organic compounds can become airborne, and expose particularly low-income populations to respiratory irritants, allergens, and carcinogens (Dorevitch et al., 2006). This is especially alarming, as studies show that higher percentages of Black and Hispanic residents, as well as households with lower socioeconomic status, are in close proximity to landfills (Joseph and Kamanmalek, 2025).

Successful C&D diversion can yield results that are beneficial to surrounding communities. A study by the EPA found that diverting 70-90% of debris can reduce 250-400 kg of CO₂ per ton of material, improving air quality in the area (Shajidha, and Mortula, 2025). In India, the recycling of C&D debris was found to improve *all* 15 impact categories of the recycling life cycle assessment, with observations like decreased leachate improving soil and groundwater, lower contamination from heavy metals, and reduced habitat disruption (Ram et al., 2020). Effective enforcement of C&D diversion is necessary if Berkeley is to sustain healthy communities and mitigate the harmful effects of climate change.

RATIONALE FOR RECOMMENDATION

Establishing an effective enforcement mechanism will support staff in bringing repeat offenders into compliance, levelling the playing field for all contractors and encouraging contractors who work in good faith. Beyond informing contractors of their responsibilities to meet the 65% diversion minimum, staff currently have little power to hold contractors accountable, especially those that are repeatedly out of compliance, and repeatedly act in bad faith.

ALTERNATIVE ACTIONS CONSIDERED

The alternative is no action as it relates to enforcement. Staff continue increasing outreach and education measures which only address part of the non-compliance issue

and do not target those bad actors who have repeatedly been out of compliance for the past decade with no consequence.

CITY MANAGER

See companion report.

CONTACT PERSON

Julia A. Heath, Zero Waste Commission Secretary, Recycling Program Manager, (510) 981-6357

