



# TOWN OF FAIRFAX

## STAFF REPORT

### November 1, 2017

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager

**SUBJECT:** Introduction and first reading by title only of an Ordinance to Amend the Town Municipal Code, Chapter 8.08 (Garbage and Rubbish Disposal), Section 8.08.050 (Duties of Owners and Occupants) to Require Source Separation of Recyclable and Compostable Materials from Solid Waste which would ban organics and recyclables from residential landfill containers.

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Continued from June 7, 2017 Meeting

#### RECOMMENDATION

- 1) Conduct the public hearing.
- 2) Introduce, waive first reading, and read by title only an Ordinance of the Town Council of the Town of Fairfax to Amend the Town Municipal Code, Chapter 8.08 (Garbage and Rubbish Disposal), Section 8.08.050 (Duties of Owners and Occupants) to Require Source Separation of Recyclable and Compostable Materials from Solid Waste.

#### DISCUSSION

In December 2016, the Council received a report from the Town's Zero Waste Committee, consisting of Vice-Mayor Lacques and Councilmember Goddard, recommending approaches for the Town to consider to facilitate its diversion goals. Toward that end, the Committee indicated it would be developing an ordinance for Council's consideration to ban residents from placing organics (food waste) in their landfill containers. Commercial businesses are already required to separate recyclable and organic materials from solid waste. The Committee also reported that the Town's Climate Action Committee is supportive of this concept.

In March 2017, the Council approved a nominal increase in Marin Sanitary Service (MSS) rates for the express purpose of having MSS provide small compost pails along with associated educational materials to all households in Town. This ordinance would complement such efforts by banning residents from placing organic material in their landfill (trash) containers. The pail and materials are scheduled to be delivered in November.

According to the latest MSS report, Fairfax has an approximate 67% residential diversion rate. In general, diversion rates in Marin County have plateaued. The area for greatest improvement lies with residents diverting more food scraps into their green compost bins. Staff has been discussing with the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) the possibility of the JPA funding a pilot program to conduct an education and outreach program (including waste audits) to help Fairfax residents better understand the merits of diverting food scraps from the trash bin. The key to the Town's effort will be education and outreach to residents.

The proposed ordinance is fairly straight forward and does not amend any other sections of the Town code. While the ordinance does require residents to separate both recyclable materials and organic materials from solid waste, the main concern is for organic materials. Our understanding is that our residents do a very good job of diverting recyclables from the trash. The ordinance does allow residents to be excused or receive educational training for violations.

**ATTACHMENT:** Ordinance

AGENDA ITEM # 11

ORDINANCE NO. \_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
TO AMEND THE TOWN MUNICIPAL CODE, CHAPTER 8.08 (GARBAGE AND RUBBISH  
DISPOSAL), SECTION 8.08.050 (DUTIES OF OWNERS AND OCCUPANTS)  
TO REQUIRE SOURCE SEPARATION OF RECYCLABLE AND COMPOSTABLE  
MATERIALS FROM SOLID WASTE**

The Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1. FINDINGS.** The Town Council of the Town of Fairfax hereby finds that:

A. The Town of Fairfax, California (the “Town”) is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. The Town has a duty to protect the natural environment, the economy and the health of its citizens.

C. Organic or compostable waste that is buried in the anaerobic conditions of landfills creates methane gas and leaches toxins. Methane gas is at least 21 times as potent as carbon dioxide in changing the planet’s climate.

D. The Town wishes to increase its organic waste diversion rates.

E. The Marin County Hazardous and Solid Waste Management Joint Powers Authority (also known as Zero Waste Marin) has adopted a goal to achieve a zero waste within Marin County by 2025.

F. State law (Cal. Public Resources Code §§ 42649 - 42649.7) and the Town Code (Fairfax Municipal Code § 8.08.130 et seq.) already mandate recycling and composting by certain commercial and multifamily sources, as defined.

G. Voluntary participation alone by residents in all other residence types (single family dwellings, duplexes and triplexes) and others will not likely enable the Town to meet its zero waste goal by 2020 or the Zero Waste Marin goal by 2025.

H. Households will receive kitchen pails and educational materials to assist with the diversion of organics from landfill.

**SECTION 2. DUTIES OF OWNERS AND OCCUPANTS.** Subsection (A) of Section 8.08.050, Duties of Owners and Occupants, of the Fairfax Municipal Code is hereby amended to add a new subsection (9) as follows:

“(9) Source separate recyclable materials and organic materials from solid waste. This requirement shall not apply to commercial facilities that are expressly exempt from mandatory recycling under section 8.08.130-6(A). The Director may excuse or waive violations of this requirement upon reasonable demonstration that source separation is not feasible or practical under the circumstances. In addition to any other remedy available for violations of this code, the Director may refer offenders to an

educational training program. All terms in this section shall have the same meanings as provided in section 8.08.130-2.”

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in 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 Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

**SECTION 4. CEQA.** This Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because it mandates source separation of recyclable and compostable materials from solid waste in order to reduce landfill waste, methane emissions and toxic leachate, and to conserve natural resources and the environment. Therefore, this ordinance is exempt from further environmental review pursuant to a Class 7 categorical exemption (State CEQA Guidelines, § 15307), which consists of actions by a regulatory agency for protection of the natural resources, and also a Class 8 categorical exemption (State CEQA Guidelines, § 15308), which consists of actions by a regulatory agency for protection of the environment. As this Ordinance mandates participation by residents in existing recycling programs by using the green “organics carts” that are already supplied to each residence pursuant to the existing franchise agreement(s), the Town Council hereby finds and determines that none of the exceptions to the categorical exemptions outlined in State CEQA Guidelines section 15300.2 applies.

**SECTION 5.** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building, located at 46 Park.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the \_\_\_ day of \_\_\_\_\_, 2017, and duly adopted at the next regular meeting of the Town Council on the \_\_\_ day of \_\_\_\_\_, 2017, by the following vote, to wit:

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

\_\_\_\_\_  
John Reed, Mayor

ATTEST: \_\_\_\_\_  
Michele Gardner, Town Clerk