



**TOWN OF FAIRFAX
STAFF REPORT
December 6, 2017**

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager ^{GT}

SUBJECT: Second reading by title only and adoption 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.

RECOMMENDATION

Waive second reading and read by title only and adopt 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

The attached ordinance banning Fairfax residents from placing organics (food waste) in their landfill containers was introduced at the November 1, 2017, Town Council meeting. Since then, Marin Sanitary Service (MSS) has delivered small compost pails for kitchen use along with associated educational materials to all households in the Town, to complement this ordinance.

Tonight is the second reading. If adopted, the ordinance would go into effect in 30 days.

FISCAL IMPACT

N/A

ATTACHMENT

A. Ordinance

AGENDA ITEM # 24

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 (i.e., residents are prohibited from disposing of organic materials and recyclables in their landfill containers). This requirement shall not apply to commercial facilities that are expressly exempt from mandatory recycling under section 8.08.130-6(A). The Director, (i.e., Town Manager or his/her Designee), may excuse or waive violations of this requirement upon reasonable demonstration or explanation that source separation

is not feasible or practical under the circumstances. For the first and second violations under this paragraph 9, the Director will refer offenders to an educational training program. Subsequent violations shall be subject to Chapter 1.10 "Administrative Citation and Hearing Process Enforcement." 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 1st day of November, 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:

MAYOR

ATTEST: _____
Michele Gardner, Town Clerk