



TOWN OF FAIRFAX
STAFF REPORT
September 4, 2013

TO: Mayor and Town Council

FROM: Michele Gardner, Town Clerk

SUBJECT: Second reading and Adoption of Ordinance No. 771 Amending the Municipal Code by Adding Section 15.04.050 (Collection, Recycling, and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects Within the Town of Fairfax)

RECOMMENDATION

- 1) Conduct a second reading by title only of Ordinance No. 771, an Ordinance of the Town Council of the Town of Fairfax Amending the Municipal Code by adding Section 15.04.050 (Collection, Recycling, and Disposal of Waste Generated from Construction, Demolition, and Renovation Projects Within the Town of Fairfax)

- 2) Adopt Ordinance No. 771

DISCUSSION

The ordinance was introduced at the August 7, 2013 Town Council Meeting. This is the second reading to adopt the ordinance. Should the Council adopt the ordinance, it shall take effect thirty (30) days after its passage.

FISCAL IMPACT

The possibility exists that the Town could collect avoidance fees to offset program costs.

ATTACHMENT

Ordinance No. 771

ORDINANCE NO. 771

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING THE MUNICIPAL CODE BY ADDING SECTION 15.04.050 (COLLECTION, RECYCLING AND DISPOSAL OF WASTE GENERATED FROM CONSTRUCTION, DEMOLITION, AND RENOVATION PROJECTS WITHIN THE TOWN OF FAIRFAX)

SECTION 1 (ENACTMENT):

The Town Council of the Town of Fairfax does ordain this ORDINANCE No. 771 in full, amending the Fairfax Municipal Code by adding a new Section to the Fairfax Municipal Code which shall read as follows:

SECTION 15.04.050 COLLECTION, RECYCLING AND DISPOSAL OF WASTE GENERATED FROM CONSTRUCTION, DEMOLITION, AND RENOVATION PROJECTS WITHIN THE TOWN OF FAIRFAX

15.04.050-1 FINDINGS

- A. The Town finds that the State of California through its California Waste Management Act of 1989, Assembly Bill 939 (AB 939 passed and signed into law in 1989) and Alternative Compliance Act of 2008 (SB 1016 passed and signed into law in 2008), requires that each local jurisdiction in the state divert 50% of discarded materials from landfill garbage disposal on a per capita basis.
- B. The Town finds that every city and county in California, including the Town, could face fines up to \$10,000 a day for not meeting the above mandated goal.
- C. The Town finds that the State of California through its California Global Warming Solutions Act of 2006 (AB 32 passed and signed into law in 2006), requires that commercial generators statewide participate in recycling programs.
- D. The Town finds that in recent years, inerts and mixed Construction and Demolition (C&D) debris constituted approximately 16% of the materials landfilled in Marin County and a similarly large portion of the waste stream in the Town. These materials have significant potential for waste reduction and recycling.
- E. The Town finds that reusing and recycling C&D debris is essential to further the Town's efforts to reduce waste and comply with AB 939, AB 32 and other waste reduction goals.
- F. The Town finds that C&D debris waste reduction and recycling have been proven to reduce the amount of such material in landfills, increase site and worker safety, be cost effective, and thereby assist in the protection of public health, safety and welfare.
- G. The Town finds that, except in unusual circumstances, it is feasible to divert on average one hundred percent (100%) asphalt and concrete, and at least seventy percent (70%) of all remaining C&D debris from most construction, demolition, and renovation projects.
- H. The Town desires to implement a program to encourage the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) goal to increase the diversion of materials from landfill and transformation facilities to achieve 80% diversion goal by 2012 and Zero Waste by 2025, ensure that resources are used to their highest potential, reduce upstream waste, and reduce Marin's ecological footprint.

- I. The Town finds that, to ensure compliance with this Section and to ensure that those contractors that comply with the Section are not placed at a competitive disadvantage, it is necessary to impose a financial incentive as set forth by resolution of the Town Council.
- J. The Town finds that, to ensure compliance with this Section, facilities will be evaluated annually through an extensive certification process conducted by the JPA.

15.04.050-2 DEFINITIONS

- A. "Alternative Daily Cover (ADC)" means disposal facility cover material, other than organic waste and at least six (6) inches of earthen material, placed on the surface of the active face of the refuse fill area at the end of each operating day to control vectors, fires, odor, blowing litter and scavenging, as defined in Section 20164 of the California Code of Regulations.
- B. "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 Town for the applicable permits to undertake any construction, demolition or renovation project within the Town.
- C. "Avoided Disposal Fee" means three percent (3%) of the value of the project, not to exceed ten thousand dollars (\$10,000).
- D. "Certified Recycling Facility" means a recycling, composting, materials recovery or re-use facility determined to process incoming C&D materials to divert from landfill or transformation for which the certifying agency has issued a certification.
- E. "Construction and Demolition Waste (C&D Waste)" means the discarded building materials from C&D activities, including but not limited to, fully-cured asphalt, concrete, brick, rock, soil, lumber, gypsum wallboard, cardboard, and other associated packaging, roofing materials, ceramic tile, carpeting and padding, fixtures, plastic pipes, metals, tree stumps and other vegetative matter resulting from land clearing and landscaping. This does not include Hazardous Waste or Garbage and Rubbish Disposal under Municipal Code Chapter 8.08.
- F. "C&D Diversion Report" means a report submitted by a Applicant, on a form issued by the Director, which contains an estimate of the amount of C&D waste generated by the project, documentation of the diversion of C&D waste, including recycling, reuse, and Certified Recycling Facility receipts, and such additional information deemed necessary by Director to document accomplishment of the requirements of this Ordinance.
- G. "Deconstruction Project" means a process to carefully dismantle or remove usable materials from structures, as an alternative to demolition.
- H. "Director" means the Town Manager, including his or her designee.
- I. "Diversion" or "Diverted" means a reduction of the amount of waste being disposed in a landfill by any of the following methods:
 - i. Use of new construction methods, as described in regulations promulgated by Director, that reduce the amount of waste generated.
 - ii. On-site re-use of the waste.
 - iii. Delivery of the waste from the site to a Certified Recycling Facility described in Section 15.04.050-5.

- iv. Other methods as approved in regulations promulgated by the Director.
- J. "Joint Powers Authority" or "JPA" means Marin County Hazardous and Solid Waste Management Joint Powers Authority.
- K. "Project" means a construction, demolition or renovation project for which a building permit is required under Chapter 15.04
- L. "Recycling" means a subset of Solid Waste and means the collection of Recyclable Materials which would otherwise be discarded without receiving compensation and returning them to the economy in the form of raw materials for new, reused, or reconstituted products in compliance with AB 939 diversion requirements.
- M. "Recyclable Materials" means segregated residential, commercial or industrial by-products of some potential economic value, set aside, handled, packaged, or offered for collection in a manner different from refuse. Recyclable Materials include, but are not limited to, paper, glass, cardboard, plastics, ferrous metal, aluminum and green waste.
- N. "Reuse" means using an object or material again, either for its original purpose or for a similar purpose, without significantly altering the physical form of the object or material.

15.04.050-3 C&D DIVERSION REPORT REQUIRED

- A. Except as otherwise specified in this Section, on or after January 1, 2014, each person who applies for a building permit pursuant to Chapter 15.04 of the Town Municipal Code shall complete a C&D Diversion Report. On or after April 1, 2014, no building permit shall be issued unless the applicant submits the C&D Diversion Report.
- B. Except as otherwise specified in this Section, on or after June 1, 2014, each person who applies for a building permit pursuant to Chapter 15.04 of the Town Municipal Code shall remit a C&D Diversion Report prior to final inspection and issuance of occupancy permit. An Avoided Disposal Fee may be imposed if a permitted facility is not used or recycling/reuse receipts are not submitted prior to final inspection and issuance of occupancy permit to ensure compliance and to fund enforcement. The Avoided Disposal Fee shall be in based on three percent (3%) of the value of the project, not to exceed ten thousand dollars (\$10,000).

15.04.050-4 C&D DIVERSION REPORT EXEMPTIONS

- A. A C&D Diversion Report shall not be required for the following:
 - i. Work for which a building permit is not required under Chapter 15.04. of the Town Municipal Code.
 - ii. Residential alterations of less than \$2,000 in value.
 - iii. Non-residential alterations of less than \$5,000 in value.
 - iv. Work for which only a plumbing permit, only an electrical or only a mechanical permit is required.
 - v. Seismic tie-down projects.
 - vi. The installation or replacement of shelves.
 - vii. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
 - viii. Installation of swimming pools and spas, provided that the exemption shall apply only to (1) the area to be excavated for the installation of the pool or spa and (2) the area for the pad for the pool/spa equipment that does not exceed sixteen square feet; and shall not apply to any related construction or alterations necessary for any other equipment or accessories, nor to any other portion of the project.
 - ix. Installation of pre-fabricated accessories such as signs or antennas where not structural building modifications are required.
- B. It is unlawful to split or separate a project into small work projects for the purpose of evading the requirements of this Section 15.04.050.

15.04.050-5 CERTIFIED C&D RECOVERY FACILITIES

- A. The JPA shall issue a certification only if the owner or operator of the facility submits the following documentation satisfactory to the JPA's designee:

- i. The facility has obtained all applicable Federal, State, and local permits, and is in full compliance with all applicable regulations; and
 - ii. The percentage of incoming waste from construction, demolition, and alteration activities that is diverted from landfill disposal, transformation and use as ADC meets a required minimum of seventy percent (70%) or other amount as set forth in regulations promulgated by the JPA.
- B. The Town shall make available to each building permit applicant a current list of certified C&D recovery facilities, Reuse facilities, and certified C&D haulers.

15.04.050-6 USE OF AVOIDED DISPOSAL FEES

- A. Moneys received by the Town as Avoided Disposal Fees shall be used only for:
- i. Costs of administration of the program established by this Section;
 - ii. Cost of programs whose purpose is to divert the waste from construction, demolition, and alteration projects from landfill disposal, transformation and use as ADC; and
 - iii. Costs of programs whose purpose is to develop or improve the infrastructure needed to divert the waste from construction, demolition and alteration projects from disposal in a landfill, transformation facility or use as ADC.

SECTION 2 (SEVERABILITY):

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Section 15.04.050, 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 Section 15.04.050 or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Section 15.04.050 irrespective of that fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Section are declared to be severable.

SECTION 3 (EFFECTIVE DATE):

This Section 15.04.050 shall take effect thirty (30) days after its passage.

SECTION 4 (POSTING):

Copies of the foregoing ordinance shall, within fifteen (15) days after its final passage and adoption, be posted in three public places in the Town of Fairfax, to wit:

- a) Bulletin Board, Fairfax Town Offices, Town Hall;
- b) Bulletin Board, Fairfax Post Office; and
- c) Bulletin Board, Fairfax Women’s Club Building,

which said places are hereby designated for that purpose.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the Fairfax Town Council on the 7th day of August 2013, and was adopted at a regular meeting of the Town Council on the 4th day of September 2013 by the following vote:

AYES:
NOES:
ABSENT:

JOHN REED, Mayor

Attest: _____
Michele Gardner, Town Clerk