

**TOWN OF FAIRFAX
STAFF REPORT**

To: Mayor, Members of the Town Council

From: Garrett Toy, Town Manager *GT*

Date: May 1, 2013

Subject: Introduction and first reading of Ordinance 770, An Ordinance of the Town Council for the Town of Fairfax concerning the collection, recycling, and disposal of waste generated from construction, demolition, and renovation projects within the Town of Fairfax

RECOMMENDATION

- 1) Introduce and read by title only ordinance No. 770 an Ordinance of the Town Council of Fairfax amending the municipal code by adding Section 15.04.050 concerning the collection, recycling and disposal of waste generated from construction, demolition, and renovation projects within the Town of Fairfax.
- 2) Waive further reading of the ordinance.

DISCUSSION

At its March 2013 meeting, the Council directed staff to prepare a Construction and Demolition Debris Program Ordinance. Currently, construction waste reduction, disposal, and recycling are addressed under the Town's Building Code via its adoption of the California Green Building Standards Code. However, the sections of the Green Building Standards Code governing construction and demolition debris only apply to new construction.

The proposed Town Ordinance No. 770 is based on the model ordinance prepared by the Marin County Hazardous Waste and Solid Waste Management Joint Powers Authority (JPA). The model ordinance was designed to create a process to maximize diversion of construction debris. As a matter of practice, all construction debris taken to the Marin Resource Recovery Center (MRRC) automatically gets sorted to retrieve recyclable materials. Similarly, the Redwood Landfill would sort the debris upon request and payment of an additional fee. However, should construction debris be taken to a non-certified recycling facility, there is no requirement for diversion. This ordinance would make diversion a requirement.

Staff believes the ordinance would apply to a majority of the building permits issued. While the impact to staff is minimal, it will create an additional burden to those who want to obtain a building permit. Building permits would not be issued without a diversion report and permits would not be finalized unless documentation that the debris was taken to a certified facility was submitted. Attached for your reference is a copy of the required diversion report.

The ordinance is phased in over time to allow the community to become familiar with the new program. Specifically, the key dates are:

- On or after November 1, 2013, each person who applies for a building permit will be required to complete a C&D Diversion Report.

- On or after February 1, 2014, no building permit shall be issued unless the applicant submits the C&D Diversion Report.
- On or after May 1, 2014, each person who applies for a building permit shall be required to remit a C&D Diversion Report prior to final inspection and issuance of occupancy permit.

FISCAL IMPACT

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

ATTACHMENTS

Ordinance 770
Diversion Report

ORDINANCE NO. 770

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. 770 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.

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. "C&D Diversion Report" means a form issued by the Director to be submitted by the Applicant when applying for a building permit and prior to final inspection and issuance of occupancy permit.
- F. "Director" means the Town Manager, including his or her designee.
- G. "Diversion" or "Diverted" means a reduction of the amount of waste being disposed in a landfill or transformation facility 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.
- H. "Joint Powers Authority" or "JPA" means Marin County Hazardous and Solid Waste Management Joint Powers Authority.

15.04.050-3 C&D DIVERSION REPORT REQUIRED

- A. Except as otherwise specified in this Section, on or after November 1, 2013, 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 February 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 May 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. Deconstruction Projects.
 - ii. Work for which a building permit is not required under Chapter 15.04. of the Town Municipal Code.
 - iii. Residential alterations of less than \$2,000 in value.
 - iv. Non-residential alterations of less than \$5,000 in value.
 - v. Roofing projects.
 - vi. Work for which only a plumbing permit, only an electrical or only a mechanical permit is required.
 - vii. Seismic tie-down projects.
 - viii. The installation or replacement of shelves.
 - ix. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
 - x. 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.
 - xi. 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 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 1st day of May 2013, and was adopted at a regular meeting of the Town Council on the ____ day of ____, 2013 by the following vote:

AYES:

NOES:

ABSENT:

JOHN REED, Mayor

Attest:

Michele Gardner, Deputy Town Clerk

C&D DIVERSION FORM

Instructions:

Complete Part 1 when applying for a building permit. Prior to requesting a final inspection and issuance of occupancy permit, submit receipts from Approved Recycling C&D Hauler or C&D Recovery Facility along with this completed form to the Building Division.

Requirements:

- Applies to all construction, demolition and renovation projects requiring one or more building permits.
- 100% asphalt and concrete, and at least 70% of all remaining C&D debris must be diverted from the landfill from construction, demolition, and renovation projects.
- Receipts for recycling/reuse/disposal must be submitted prior to issuance of occupancy permit.

Part 1: Project Information

Permit Number _____ Job Address _____
 Type & Size of Project: Demolition _____ sf Remodel _____ sf New/Addition _____ sf
 Type of Construction: Wood frame Concrete Steel Other (specify) _____
 Waste Hauler or Recycling Contractor _____
 Estimated Project Value \$ _____

Estimated C&D Generation			
Project Type	Project Size	Debris Weight Projection Factor	Estimated Total Project Debris
New construction	_____ sf	X 4 lbs. / sf	= _____ lbs.
Remodeling	_____ sf	X 40 lbs. / sf	= _____ lbs.
Demolition	_____ sf	X 70 lbs. / sf	= _____ lbs.
Demolition, including foundation	_____ sf	X 100 lbs. / sf	= _____ lbs.
PROJECT TOTAL =			_____ lbs.

Approved C&D Haulers
 TO BE COMPLETED BY FRANCHISING AGENCIES
 Example:
Marin Sanitary Service
 535 Jacoby St., San Rafael (415) 465-2601

Approved C&D Recovery Facilities
 TO BE COMPLETED BY JPA
 Example:
Marin Sanitary Service Transfer Station
 1060 Andersen Dr., San Rafael (415) 456-2601

Part 2: Documentation of Compliance to C&D Ordinance

Complete Part 2a or Part 2b to show compliance with the Town's C&D Ordinance requirements listed above.

Part 2a: Documentation Showing Use of an Approved Recycling C&D Hauler/Facility

Submit receipts from Approved C&D Hauler or C&D Recovery Facility along with this completed form to the Building Division prior to requesting a final inspection.

Part 2b: C&D Diversion Report

Document actual waste diversion for you project. (Please attach all receipts.)

Date of Receipt	Salvage/Deconstruction, Reuse or Recycling Facility Name	Materials Diverted	Quantity/Weight of Materials Diverted

Part 3: Actual Project Value and Avoided Disposal Fee (ONLY TO CALCULATE AVOIDED DISPOSAL FEE)

Please fill out the information below as accurately as possible, and submit this completed form along with WEIGHT receipts from your waste hauler/recycler/reuse facility (note that receipts must be for weighed materials, not by material volume) prior to requesting a final inspection.

Value of Project \$ _____ X 3% (but no more than \$10,000) = \$ ____ Avoided Disposal Fee*

*Amount due prior to issuance of occupancy permit if diversion requirements are not meet.

ADDITIONAL LOCAL RESOURCES: Deconstruction Companies and Reuse Facilities				
Name	Address	Town	Phone	Website
The Away Station	109 Broadway	Fairfax	(415) 453-4410	www.theawaystation.org
Beyond Waste	605 W. Sierra	Cotati	(707) 792-2555	www.beyondwaste.com
Recycle Town	500 Mecham Road	Petaluma	(707) 795-3660	www.garbage.org
Heritage Salvage	1473 Petaluma Blvd. S.	Petaluma	(707) 762-6277	www.heritagesalvage.com
The ReUse People	9235 San Leandro Blvd.	Oakland	(510) 522-2722	www.thereusepeople.org
C&K Salvage	718 Douglas Blvd.	Oakland	(510) 569-2070	