

TOWNSHIP OF FAIRFIELD
ORDINANCE #2009-10

AN ORDINANCE AMENDING CHAPTER 16
OF THE CODE OF THE TOWNSHIP OF FAIRFIELD
REGARDING RECYCLING

WHEREAS, The Township of Fairfield approves an Ordinance to amend Sections 16-1 through 16-1.9, Chapter 16, of the Code of the Township of Fairfield regarding recycling; and

WHEREAS, The Mayor and Council of the Township of Fairfield, in the County of Essex, in the State of New Jersey, does ordain: Sections 16-1 thru 16-1.9 Chapter 16 Solid Waste Management shall be deleted and replaced and amended in its entirety.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF FAIRFIELD, COUNTY OF ESSEX, AND STATE OF NEW JERSEY AS FOLLOWS:

Chapter 16

Sec. 16-1 RECYCLING.

16-1.1 Definitions. As used in this section:

Commingled shall mean a combining of non-putrescible source-separated recyclable materials for the purpose of recycling.

Covered project shall mean a construction, renovation, or demolition project for which a building permit or a demolition permit is required, and for which a dumpster or roll off container shall be placed on premises for the purpose of placement of solid waste materials.

Designated recyclable materials shall mean those materials designated within the Essex County District Solid Waste Management Plan to be source-separated for the purpose of recycling. These materials include:

1. **RESIDENTIAL:** Newspapers; Mixed Paper (i.e. junk mail, office paper, all marketable grades); corrugated containers; glass food and beverage containers; aluminum beverage containers; plastic containers (#1 and #2); steel/tin containers; leaves; grass clippings; used motor oil; white goods (i.e. refrigerators, washers/dryers); lead acid batteries (vehicle batteries); ferrous scrap.

2. **COMMERCIAL:** newspapers, office paper; corrugated containers; Glass food and beverage containers; aluminum beverage containers; plastic containers (#1 and #2); steel/tin containers; leaves; used motor oil; white goods (i.e. refrigerators, washers/dryers); lead acid batteries (vehicle batteries); ferrous scrap.

3. **INSTITUTIONAL:** newspapers; office paper; corrugated containers; glass food and beverage containers; aluminum beverage containers; plastic containers (#1 and #2); steel/tin containers; leaves; used motor oil; white goods (i.e. refrigerators, washers/dryers); lead acid batteries (vehicle batteries); ferrous scrap.

Multifamily Dwelling shall mean any building or structure, or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see NJSA 13: 1 E99.13a.) and shall include hotels, motels, or other guest

houses serving transient or seasonal guests as those terms are defined under subsection (j) of section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C.55: 13A-1 et seq.).

Municipal Recycling Coordinator shall mean the person or persons appointed by the municipal governing body and who shall be authorized to, among other things; enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder.

Municipal Solid Waste (MSW) Stream shall mean all solid waste generated at residential, commercial, and institutional establishments within the boundaries of the municipality of Township of Fairfield.

Recyclable material shall mean those materials which would otherwise become solid waste, at which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products;

Source-Separated Recyclable Materials shall means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

Source Separation shall mean the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

16-1.2 Source Separation; Exemption from Source Separation Requirements.

a. **Mandatory Source Separation:** It shall be mandatory for all persons who are owners, tenants, or occupants of residential and non-residential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Township of Fairfield, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or occupants of such premises.

b. **Exemptions:** Pursuant to N.J.S.A. 13: 1E-99.16(d), the governing body of the township may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of the ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this Chapter, a commercial or institutional generator of solid waste shall file an application for exemption with the municipal recycling coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the municipal recycling coordinator of the total number of tons collected and recycled for each designated material.

16-1.3 Collection of Recyclable Materials.

The collection of recyclable material shall be in the manner prescribed as follows:

Only Township residents may place at the curb newspapers and co-mingled aluminum, plastic, steel/tin containers for collection by the township on designated days. Newspapers shall be tied or otherwise secured in bundles not exceeding thirty (30) pounds in weight. Co-mingled containers shall be placed in separate receptacles. All other recyclables shall be delivered to the township's

designated drop off center. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after 5: 00 PM of the day immediately preceding the day of collection, but no later than 6:00 AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 PM of the day of collection. All receptacles or dumpsters shall be kept clean and in a safe manner.

16-1.4 Residential Dwelling Compliance Requirements.

The owner of any property shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every 6 months during their occupancy.

16-1.5 Non-Residential Establishment Compliance Requirements.

All commercial and institutional generators of solid waste shall be required to comply with the provisions of this Ordinance.

The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.

Every business, institution, or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

16-1.6 New Developments of Multi-Family Residential Units or Commercial, Institutional, or Industrial Properties (Pursuant to N.J.S.A. 13:1E-99.13a and 99.16c.).

Any application to the Planning Board of the Township of Fairfield, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:

A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the municipal recycling coordinator.

Prior to the issuance of a Certificate of Occupancy by the Township of Fairfield, the owner of any new multi-family housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.

Provision shall be made for the indoor, or enclosed outdoor, storage and pickup of solid waste, to be approved by the Municipal Engineer.

16-1.7 Prohibition of the Collection of Solid Waste Mixed with Recyclable Materials.

It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.

It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.

Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

16-1.8 Construction, Renovation and Demolition Debris Recovery Plan.

A Debris Recovery Plan shall be filed with the Municipal Recycling Coordinator prior to the commencement of any activity for which municipal approval as further identified above. The debris recovery plan shall identify the types and estimated quantities of construction and demolition debris to be generated from the project, how each material will be managed, and the name of each facility or service provider that the entity will use to manage each material. The plan shall further detail how the applicant shall ensure that a minimum of 50% of the materials to be generated will be separated and recycled.

16-1.9 Review of Debris Recovery Plan.

a. *Approval:* A Debris Recovery Plan shall be reviewed by the Municipal Recycling Coordinator, and approved if it provides for all of the information required by this Ordinance. An approved Debris Recovery Plan shall be marked "Approved" and returned to the owner of the entity which submitted the plan.

b. *Denial:* A Debris Recovery Plan shall not be approved if it does not provide all of the information required by this Ordinance. If a Debris Recovery Plan is not approved, the owner of the entity which submitted the plan shall be notified in writing that the plan has been rejected, including the reasons for the rejection. In order to obtain the building or demolition permit sought, the owner of the entity which will carry out the construction, renovation, or demolition project shall make the required changes and resubmit the debris recovery plan to the municipal recycling coordinator.

16-1.10 Diversion Requirement Adjustment.

a. *Application:* If the owner of an entity carrying out a covered project experiences circumstances that makes it infeasible to comply with the diversion requirement cited in this Ordinance, the owner of the entity may apply for an adjustment. The owner shall indicate in writing why it is infeasible to divert 50% of the materials being generated from the covered project and specify what percentage of diversion could be achieved. Increased costs to the owner

of the entity carrying out the covered project will not be an acceptable justification for an adjustment.

b. *Review:* The Municipal Recycling Coordinator shall review the information supplied by the owner. If warranted the Municipal Recycling Coordinator shall attempt to contact the owner to discuss possible ways of meeting the diversion requirement.

c. *Granting of an Adjustment:* If the Municipal Recycling Coordinator determines that it is infeasible for the entity carrying out a covered project to divert 50% of the generated C&D debris from the covered project, the percent of diversion required shall be adjusted. The owner shall be notified in writing of the adjusted diversion requirement. The owner of the entity carrying out the covered project shall be required to divert the percent of C&D debris required by the adjustment.

d. *Denial of Adjustment:* If the Municipal Recycling Coordinator determines that it is feasible for the owner of an entity carrying out a covered project to meet the diversion requirement cited in this Ordinance, the owner shall be notified in writing of the denial of the diversion requirement adjustment.

16-1.11 Debris Recovery Plan Reporting Requirements Documentation.

Upon completion of the covered project, but before the final inspection, the owner of the entity carrying out a covered project shall submit in person or by certified mail to the municipal recycling coordinator, the documentation required to demonstrate that the applicant has met the diversion requirement. The required documentation shall include the following:

- a. A completed debris recovery report, signed by the owner of the entity carrying out a covered project, indicating the quantity of each material generated during the covered project diverted or disposed;
- b. Receipts from all facilities or service providers utilized to divert and dispose materials generated during the covered project; and
- c. Any additional information that the owner of the entity carrying out the covered project believes is relevant to determining compliance with the diversion requirement.

16-1.12 Compliance with Diversion Requirement.

The Municipal Recycling Coordinator shall review the information submitted pursuant to this Ordinance and determine whether the owner of the entity carrying out the covered project has complied, or failed to comply with the diversion requirement. The determination regarding compliance will be provided to the owner of the entity carrying out the covered project in writing.

16-1.13 Appeal.

An owner of the entity carrying out the covered project may appeal a determination of failure to comply under this Ordinance to the municipality within 30 days of the decision or determination. The appeal shall be in writing and shall state the facts and basis for the appeal. A decision by the Municipal Recycling Coordinator shall be final. (1969)

16-1.14 Enforcement.

The Code Enforcement Official, the Police Department, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, are hereby individually and severally empowered to enforce the provisions of this Ordinance. The respective enforcing official may, in his or her discretion, post warning stickers for a first offense. An inspection may consist of dumping and opening of solid waste bags or containers to detect, by sound or sight, the presence of any recyclable material.

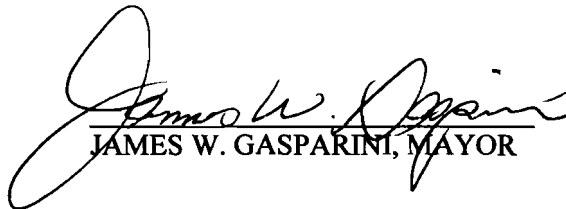
16-1.15 Violations and Penalties.

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$250, not more than \$1000. Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program.

16-1.16 Severability; Effective Date.

If it is determined, by a Court of competent jurisdiction, that any provision or section of this Ordinance is unconstitutional, all other sections and provisions shall remain in effect. This Ordinance shall take effect immediately.

1. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
2. If any section, paragraph, subdivision, clause of provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.
3. This Ordinance shall take effect immediately upon passage and publication in accordance with law.


JAMES W. GASPARINI, MAYOR

ATTEST:


DENISE D. CAFONE, MUNICIPAL CLERK

NOTICE

Notice is hereby given that the foregoing Ordinance was submitted in writing at a meeting of the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, held on **March 9, 2009**, introduced and read by title and passed first reading, and that said Governing Body will further consider the same for second reading and final passage thereof at a meeting to be held on **March 23, 2009 at 7:00 p.m.**, at the Municipal Building, 230 Fairfield Road, Fairfield New Jersey, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens of interest shall have an opportunity to be heard concerning same.

Denise D. Cafone
Municipal Clerk

INTRODUCTION OF ORDINANCE MARCH 9, 2009

ORDINANCE #2009-11, AN ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF THE TOWNSHIP OF FAIRFIELD REGARDING RECYCLING

**INTRODUCED BY: COUNCIL PRESIDENT MCGLYNN
SECONDED BY: COUNCILMAN CONNINGTON
PUBLISHED: MARCH 12, 2009**

2ND READING AND PUBLIC HEARING: MARCH 23, 2009

ROLL CALL VOTE

GOVERNING BODY	AYES	NAYS	ABSTAIN	ABSENT	NO VOTE
COUNCIL PRESIDENT MICHAEL MCGLYNN	X				
COUNCILMAN JOHN LAFORGIA	X				
COUNCILMAN WILLIAM CONNINGTON	X				
COUNCILMAN THOMAS MORGAN	X				
MAYOR JAMES GASPARINI	X				

2ND READING AND PUBLIC HEARING MARCH 23, 2009

**INTRODUCED BY: COUNCILMAN LAFORGIA
SECONDED BY: COUNCIL PRESIDENT MCGLYNN
PUBLISHED: MARCH 26, 2009**

ROLL CALL VOTE

GOVERNING BODY	AYES	NAYS	ABSTAIN	ABSENT	NO VOTE
COUNCIL PRESIDENT MICHAEL MCGLYNN	X				
COUNCILMAN JOHN LAFORGIA	X				
COUNCILMAN WILLIAM CONNINGTON	X				
COUNCILMAN THOMAS MORGAN	X				
MAYOR JAMES GASPARINI	X				