

ORDINANCE NO. 92-105**MATERIALS DIVERSION ORDINANCE****(Recycling Requirements for Landfill Disposal)***Documents**DEC 29 1992**Contra Costa County
Library*

The Board of Supervisors of Contra Costa County ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance adds chapter 418-10 to the County Ordinance Code, to require public agencies to meet minimum resource recovery requirements in order to dispose of solid waste in landfills located in the unincorporated area of this County.

SECTION II. BACKGROUND, FINDINGS. The Board of Supervisors finds and declares as follows: (a) The California Integrated Waste Management Act of 1989 (Pub. Res. Code, § 40000 et seq.; hereafter "Act") was adopted by the State Legislature as the state's comprehensive program for solid waste management to respond to the urgent situation resulting from the amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfill disposal. (Pub. Res. Code, § 40000.)

(b) The Act calls for local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards and requirements of the Act and regulations adopted pursuant to the Act. (Pub. Res. Code, § 40003.)

(c) The Act calls for the state and local agencies to institute an aggressive new integrated waste management program, and mandates that all cities and counties reduce the amount of solid waste disposed at landfills by 25% by the year 1995, and 50% by the year 2000, through the preparation and implementation of city and county source reduction and recycling elements of a countywide integrated waste management plan.

(d) As a first step in this process, cities and counties were required to conduct waste generation studies, identifying the waste, by category, that is in the waste stream. Based upon the data obtained from such studies, the Act requires cities and counties to identify diversion alternatives or programs for the waste types and annually report on the results of these programs to the California Integrated Waste Management Board.

(e) In Contra Costa County, the critical shortage of landfill space made it imperative that at least one new landfill be approved and developed. Although landfill siting and approval are not matters within the exclusive domain of the board, it has been and continues to be evident that there would be no viable proposal for the development of a landfill within the boundaries of an incorporated city. In order to preserve, protect and provide for the health, welfare and sanitation of all county residents, the board undertook the task of approving the establishment of two new landfills as recommended in the County Solid Waste Management Plan. The County Solid Waste Management Plan was adopted pursuant to the provisions of former Government Code title 7.3 (§ 66700 et seq.), which provisions were repealed and replaced by the Act.

(f) While landfills continue to be vital to the preservation of public health, sanitation and welfare, most people do not want to live in the vicinity of a landfill.

Further, the developer of a landfill, wherever located, requires the land to be dedicated to a use generally incompatible with uses preferred by others (such as residential or commercial development, preservation of native habitats, etc.). Therefore, there is always opposition to a landfill proposal, and the process of considering and approving the Keller Canyon and Marsh Canyon Landfill applications has been a difficult, grueling and unwelcome task for the board. Further, legal uncertainties may prevent the full use of said landfills' permitted capacities.

(g) Therefore, the board, more than ever, recognizes the value of preserving our landfill capacity as well as our other limited natural resources, and consequently embraces and supports the goals and purposes of the Act. In fact, the conditions of approval for both the Keller Canyon and Marsh Canyon Landfills prohibit the acceptance of waste from communities which do not have in operation a curbside pick-up or equivalent recycling program approved by the board.

(h) In May of 1989, the Plastics Committee of the Solid Waste Commission submitted to the board a report on plastics in the waste stream. The report included recommendations on strategies for reducing plastics in the waste stream, including plastics recovery and recycling for all municipal curbside recycling programs (to include PET, HDPE, LDPE, polystyrene, polyvinyl chloride, and polypropylene), extraction of waste plastics at all transfer stations, and the phasing out of the manufacture of plastics if the goals established by the Plastics Committee were not met.

In response to the report of the Plastics Committee, the board established the Contra Costa County Plastics Recycling Task Force, to study issues relative to landfill

disposal of plastics, and recycling alternatives to such disposal. The Plastics Task Force has recommended that the board adopt and implement an ordinance requiring municipalities to implement curbside recycling and other diversion programs for specified plastics.

(i) Due to a combination of all of the above factors, the board finds that the adoption of this ordinance is in furtherance of the public health, sanitation and welfare, and the environment.

SECTION III. Chapter 418-10 is added to the County Ordinance Code, to read:

CHAPTER 418-10

RECYCLING REQUIREMENTS FOR LANDFILL DISPOSAL

Article 418-10.2

Purposes

418-10.202 Purposes. The purposes of this chapter are to: support the implementation of the goals and purposes of the Integrated Waste Management Act of 1989 (Public Resources Code, § 40000 et seq., hereafter, "the Act"), to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible to conserve water, energy and other natural resources, by requiring local agencies subject to the Act to comply with the Act's requirements of developing and implementing recycling and source reduction programs; emphasize programs for resource recovery of plastics by implementing

the recommendations of the Plastics Committee of the Solid Waste Commission; and implement the conditions of approval for the Keller Canyon and Marsh Canyon Landfills. (Ord. No. 92-105§ 3.)

Article 418-10.4

Definitions

418-10.402 General. The terms in this chapter have the meanings ascribed to them in the Act and regulations adopted pursuant to the Act, as they may be amended from time to time, except as the context otherwise requires. In addition, the following terms have the meanings ascribed to them in this article. (Ord. 92-105§ 3.)

418-10.404 "Bottles" includes containers that hold beverages or food which have necks which are narrower than the rest of the container. It does not include those containers, such as tubs, which have a mouth that is wider than the rest of the container. (Ord. 92-105§ 3.)

418-10.406 "Cardboard" includes material primarily used for boxes, that has a corrugated inner layer. (Ord. 92-105§ 3.)

418-10.408 "Glass" includes any glass beverage, food, medicine, or toiletry container. It does not include, mirrors, window glass, crystal, pottery, ceramics, cooking pots, etc.

(Ord. 92-105 § 3.)

418-10.410 "HDPE" means high density polyethylene. Clear HDPE is most commonly found in milk and water bottles, and colored HDPE is most commonly found in detergent bottles and some plastic bags.

(Ord. 92-105 § 3.)

418-10.412 "Landfill" means a disposal facility for land disposal of solid waste.

(Ord. 92-105 § 3.)

418-10.414 "Local agency" includes cities, the county, and any special district franchising, contracting for, permitting, or in any way providing, residential or commercial solid waste collection and/or disposal service.

(Ord. 92-105 § 3.)

418-10.416 "Local agency's hauler" or "haulers of a local agency" includes a local agency's franchised, contracted or permitted residential or commercial solid waste haulers.

(Ord. 92-105 § 3.)

418-10.418 "Paper" includes high grade ledger, typically used in offices; computer print out; mixed, including non-food contact food packaging such as cereal

boxes and colored paper. . . ect mail; kraft bags; magazines. . . es not include newsprint and cardboard.

(Ord. 92-105 § 3.)

418-10.420 "PET" means polyethylene terephthalate. By way of illustration, this is the type of plastic from which two-liter beverage containers are made. In addition, some liquor, cooking oil and peanut butter jars are made of PET.

(Ord. 92-105 § 3.)

418-10.422 "Plastic film" includes plastic shopping and drycleaning bags, and shrink wrap used to wrap pallets for shipping. This material is generally coded "4" for low density polyethylene and "2" for high density polyethylene.

(Ord. 92-105 § 3.)

418-10.424 "Polystyrene" is the material that is most commonly used to make foam meat trays, foam cups, yogurt cups, plastic "silverware," packaging pellets and foam blocks.

(Ord. 92-105 § 3.)

418-10.426 "Tin" includes steel and tin cans, including those used for food and beverages.

(Ord. 92-105 § 3.)

Article 418-10.6**Recycling Program Required**

418-10.602 Recycling program. Beginning January 1, 1993, an operator of a landfill shall not accept solid waste from the haulers of a local agency that is not implementing a recycling program approved and certified by the board as satisfying the requirements of this chapter.

(Ord. 92-105 § 3.)

418-10.604 Program content. The recycling program may be either a weekly or biweekly curbside collection program or other recycling program such as drop off or commercial recycling. The recycling program shall include collection or diversion of the following materials: (a) aluminum cans, (b) glass containers, (c) newsprint, (d) PET bottles, (e) clear HDPE bottles, (f) colored HDPE bottles, (g) steel and tin-plated cans, (h) cardboard, (i) polystyrene, (j) plastic film, (k) yardwaste, and (l) paper. Recycling programs for these materials are to be implemented in accordance with the following time schedule:

- (1) January 1, 1993 - At least seven out of the twelve materials.
- (2) January 1, 1994 - At least ten out of the twelve materials.
- (3) January 1, 1996 - All twelve materials.

(Ord. 92- 105 § 3.)

418-10.606 Review. A local agency's recycling program shall be reviewed and recertified by the board at least once every five years. A local agency's source reduction and recycling element submitted in accordance with Public Resources Code section 41770, may be approved as the local agency's recycling program if it includes all those materials in section 418-10.604.

(Ord. 92-105 § 3.)

418-10.608 Report. By April 1, 1993, January 1, 1994 and January 1, 1996, each local agency shall submit to the board, a certified copy of a resolution or other official action of its governing body and each city council, reporting on and outlining the programs that serve to meet the requirements of section 418-10.604. Thereafter, each local agency shall submit a certified copy of a resolution or other official action of its governing body reporting on and outlining its programs every five years. The County may, at its option, provide a standardized reporting form.

(Ord. 92-105 § 3.)

418-10.610 Amendment. A local agency may, from time to time, request to amend its recycling program.

(Ord. 92-105 § 3.)

418-10.612 Procedure. Subject to the board's approval, the director of community development may develop rules and procedures for submittal and review of recycling programs, including five-year reviews and amendments of said programs.

(Ord. 92 - 105§ 3.)

418-10.614 Transfer station. If a local agency's hauler delivers solid waste to a transfer or processing station, the requirements of sections 418-10.602 and 418-10.604 apply to a landfill operator's acceptance of a local agency's solid waste from the transfer or processing station operator and the station operator's contractors and subcontractors. Where a station operator accepts solid waste from a local agency that is not meeting the requirements of sections 418-10.602 and 419-10.604, the station operator shall certify to the landfill operator that such local agency's solid waste is not being delivered to the landfill.

(Ord. 92-105§ 3.)

Article 418-10.8

Exemptions

418-10.802 Exemptions. The board may grant exemptions from any of the requirements of article 418-10.6, including requirements for implementing any component of a local agency's recycling or diversion program.

(Ord. 92-105§ 3.)

418-10.804 Filing. A local agency may request an exemption from the requirements of article 418-10.6 by filing with the clerk of the board a certified copy of a resolution of the local agency's governing body requesting the board to grant an exemption from the requirements of article 418-10.6, stating the grounds and facts justifying the request. Request for exemptions shall be submitted by January 1 of the year for which exemption is requested.

(Ord. 92-105§ 3.)

418-10.806 Hearing notice. The clerk of the board shall promptly set the matter for hearing at an early regular board meeting, and shall give the local agency at least five days' written notice of the hearing. The board may continue the hearing from time to time, in order to allow complete input from the local agency, staff and other interested parties.

(Ord. 92-105 § 3.)

418-10.808 Findings. The Board may grant or conditionally grant an exemption from the requirements of article 418-10.6 if the board finds that good cause exists therefor. The board shall find that good cause exists for the exemption if any of the following requirements are met:

(a) The local agency is meeting or is likely to meet the waste diversion requirements of the Act without complying with the requirements of article 418-10.6 as to the material for which the exemption is sought;

(b) As to materials subject to section 418-10.604, the cost of curbside recycling program of the material exceeds the cost of landfill disposal of the material; or

(c) The material is not needed for the County's market development zone.

(d) The market for a material has been in severe decline or is nonexistent.

(Ord. 92-105 § 3.)

418-10.810 Annual review. Unless a longer period is approved by the board, exemptions granted by the board shall be reviewed on an annual basis pursuant to the procedures set forth in sections 418-10.804 and 418-10.806. An exemption shall not be renewed unless the board makes the findings required by section 418-10.808. Requests for exemption renewals shall be submitted by January 1 of the year for which the renewal is requested.

(Ord. 92-105§ 3.)

418-10.812 Decision. The Board's decision shall be final and conclusive.

(Ord. 92-105§ 3.)

IV. AUTHORITY. This ordinance is authorized in part pursuant to the County's police power and land use authority.

V. **EFFECTIVE DATE.** This ordinance becomes effective 30 days after passage, and within 15 days of passage shall be published once with the names of the Supervisors voting for and against it in the CONTRA COSTA TIMES, a newspaper of general circulation published in this County.

PASSED on December 22, 1992, by the following vote:

AYES: Supervisors Powers, McPeak, Torlakson and Schroder

NOES: None

ABSENT: Supervisor Fahden

ABSTAIN: None

ATTEST: Phil Batchelor, Clerk of the Board of Supervisors and County Administrator

By: *Ann Caselli*
Deputy

Sumner D. McPeak
Board Chair

LTF:ct/gms
r2:Recyle.Ord