



# City Council

## *Staff Report*

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TO: Honorable Mayor and City Council

FROM: John Jansons, City Manager

DATE: March 28, 2016

SUBJECT: Ordinance # 471 Organic Waste Recycling and Composting

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**RECOMMENDED ACTION:**

It is respectfully recommended that the City Council waive First Reading and Introduce by Title Only draft Ordinance # 471 pertaining to Commercial Food Waste Recycling and Composting as mandated by California Assembly Bill 1826.

**BACKGROUND:**

In 2014, the State of California adopted Assembly Bill # 1826 (AB 1826) which mandates that local communities implement an organic waste recycling program by April 1, 2016.

AB 1826 mandates that commencing April 1, 2016, each business that generates a specified amount of organic waste per week to engage in recycling services for that organic waste in a specified manner and requires cities to adopt a program to implement organic waste recycling.

AB 1826 decreases the amount of organic waste which subjects a business to specified requirements from eight (8) cubic yards or more to four (4) cubic yards or more on January 1, 2017.

AB 1826 also requires a business which generates four (4) cubic yards or more of commercial solid waste per week, on and after January 1, 2019, to engage in organic waste recycling and, if the Department of Resources Recycling and Recovery ("Department") makes a specified determination, would decrease that amount to two (2) cubic yards, on or after January 1, 2020.

AB 1826 requires that cities, on and after January 1, 2016, implement an organic waste recycling program to divert organic waste from businesses subject to the act and requires cities to report to the Department on the city's progress in implementing the organic waste recycling program, and requires the Department to review whether a jurisdiction is in compliance with AB 1826.

**DISCUSSION:**

Pursuant to California Public Resources Code section 42649.82(d)(1), the City of Farmersville identifies the following information provided to the City Council as of the date of this ordinance:

(1) There are no known existing organic waste recycling facilities within the City of Farmersville. The closest known is the Tulare County Compost Biomass facility located at 24487 Road 140, within unincorporated Tulare County, which is approximately eight (8) commuting miles from the City of Farmersville.

(2) There are no existing solid waste and organic waste recycling facilities within the City of Farmersville, and therefore none that may be suitable for potential expansion or co-location of organic waste processing or recycling facilities.

(3) There are no known efforts underway to develop new private or public regional organic waste recycling facilities that may serve some or all of the organic waste recycling needs of the commercial waste generators of the City of Farmersville.

(4) There are no known closed or abandoned sites that might be available for new organic waste recycling facilities.

(5) There are no other known non-disposal opportunities and markets nearby for organic wastes.

(6) Presently, organic waste recycling is not specifically listed within the Farmersville Zoning Ordinance as a permitted or conditionally-permitted land use. However, there is at least one other land use listed that may be similar in nature, namely, "Recycling Facilities". The Farmersville Zoning Ordinance allows some latitude with respect to interpretation of land uses and a finding that a proposed land use is reasonably similar in nature and characteristics to listed land uses and therefore could be permitted in the particular zone, under similar conditions, procedures and regulations applicable to the listed land use. Accordingly, an organic waste recycling facility could potentially be permitted by Conditional Use Permit in the "I" (Industrial) zone in Farmersville, though specific review of a land-use application would need to be undertaken and processed in order to make a determination.

(7) There are no known incentives available for developing new organic waste recycling facilities within the City of Farmersville.

(8) "Organic waste recycling" and "compostable materials handling" are not specifically listed as a permitted or conditionally permitted land uses within the Farmersville Zoning Ordinance. This could be considered a barrier, though the Farmersville Zoning Ordinance does allow some flexibility with respect to interpretation of proposed land uses, which might allow these land uses to be permitted if they are similar enough to already listed permitted or conditionally permitted land uses.

#### Environmental Review:

The City Council may hereby find that this proposed ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment].

In addition to the foregoing general exemptions, the City Council may further find that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical

exemption [regulatory activity to assure the protection of the environment]. Upon enactment of this proposed Ordinance by the City Council, the City Manager will ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

Approval of proposed Ordinance 999 would add to Chapter 8.05 to the Farmersville Municipal Code (FMC) addressing, "Recycling of Organic Waste".

**COORDINATION & REVIEW:**

This recommendation has been coordinated with the City Attorney and the City's contract waste hauler, Mid-Valley Disposal.

**FISCAL IMPACT:**

A future Resolution of the City Council will be necessary to adopt a fee schedule applicable to those businesses subject to AB 1826 – Organic Waste Recycling.

**CONCLUSION:**

It is respectfully recommended that the City Council waive First Reading and Introduce by Title Only draft Ordinance # 471 pertaining to Commercial Food Waste Recycling and Composting as mandated by California Assembly Bill 1826.

ATTACHMENT(S) – 1 draft Ordinance #471

**Recommended By:**



\_\_\_\_\_  
John Jansons  
City Manager

# DRAFT

ORDINANCE NO. 471

AN ORDINANCE OF THE CITY OF FARMERSVILLE  
ENACTING ORGANIC WASTE RECYLCING  
REQUIRMENTS FOR BUSINESSES AND HAULERS.

THE CITY COUNCIL OF THE CITY OF FARMERSVILLE DOES ORDAIN  
AS FOLLOWS:

**Section 1. PURPOSE.** The provisions of this ordinance are intended in order to promote the public health, safety, comfort and general welfare, to provide an organic waste recycling program for reducing the amount of organic waste sent to landfills and to comply with state mandates relating to organic waste.

**Section 2. FINDINGS.**

WHEREAS, Assembly Bill 1826 (2014) mandates that commencing April 1, 2016, each business that generates a specified amount of organic waste per week to engage in recycling services for that organic waste in a specified manner and requires cities to adopt a program to implement organic waste recycling;

WHEREAS, Assembly Bill 1826 (2014) decreases the amount of organic waste which subjects a business to specified requirements from eight (8) cubic yards or more to four (4) cubic yards or more on January 1, 2017;

WHEREAS, Assembly Bill 1826 (2014) also requires a business which generates four (4) cubic yards or more of commercial solid waste per week, on and after January 1, 2019, to engage in organic waste recycling and, if the Department of Resources Recycling and Recovery (“**Department**”) makes a specified determination, would decrease that amount to two (2) cubic yards, on or after January 1, 2020;

WHEREAS, Assembly Bill 1826 (2014) requires that cities, on and after January 1, 2016, implement an organic waste recycling program to divert organic waste from businesses subject to said act;

WHEREAS, Assembly Bill 1826 (2014) requires cities to report to the Department on the city’s progress in implementing the organic waste recycling program, and requires

the Department to review whether a jurisdiction is in compliance with Assembly Bill 1826 (2014); and

WHEREAS, Assembly Bill 1826 (2014) authorizes cities to charge and collect a fee from organic waste generators to recover the city's costs incurred in complying with Assembly Bill 1826 (2014).

**Section 3.** Pursuant to California Public Resources Code section 42649.82(d)(1), the City of Farmersville identifies the following information provided to the City Council as of the date of this ordinance:

(1) There are no known existing organic waste recycling facilities within the City of Farmersville. The closest known is the Tulare County Compost Biomass facility located at 24487 Road 140, within unincorporated Tulare County, which is approximately eight (8) commuting miles from the City of Farmersville.

(2) There are no existing solid waste and organic waste recycling facilities within the City of Farmersville, and therefore none that may be suitable for potential expansion or co-location of organic waste processing or recycling facilities.

(3) There are no known efforts underway to develop new private or public regional organic waste recycling facilities that may serve some or all of the organic waste recycling needs of the commercial waste generators of the City of Farmersville.

(4) There are no known closed or abandoned sites that might be available for new organic waste recycling facilities.

(5) There are no other known non-disposal opportunities and markets nearby for organic wastes.

(6) Presently, organic waste recycling is not specifically listed within the Farmersville Zoning Ordinance as a permitted or conditionally-permitted land use. However, there is at least one other land use listed that may be similar in nature, namely "Recycling Facilities". The Farmersville Zoning Ordinance allows some latitude with respect to interpretation of land uses and a finding that a proposed land use is reasonably similar in nature and characteristics to listed land uses and therefore could be

permitted in the particular zone, under similar conditions, procedures and regulations applicable to the listed land use. Accordingly, an organic waste recycling facility could potentially be permitted by Conditional Use Permit in the “I” (Industrial) zone in Farmersville, though specific review of a land-use application would need to be undertaken and processed in order to make a determination.

(7) There are no known incentives available for developing new organic waste recycling facilities within the City of Farmersville.

(8) “Organic waste recycling” and “compostable materials handling” are not specifically listed as a permitted or conditionally permitted land uses within the Farmersville Zoning Ordinance. This could be considered a barrier, though the Farmersville Zoning Ordinance does allow some flexibility with respect to interpretation of proposed land uses, which might allow these land uses to be permitted if they are similar enough to already listed permitted or conditionally permitted land uses.

**Section 4.** CODE ADOPTION. Chapter 8.05 of Title 8 is hereby enacted and added into the Farmersville Municipal Code to read in its entirety as follows:

**Chapter 8.05  
RECYCLING OF ORGANIC WASTE**

8.05.010 – Definitions.

8.05.020 – Availability of Organic Recycling Service; Hauler Requirements.

8.05.030 – Timing for Mandatory Commercial Organic Waste Recycling.

8.05.040 – Public Nuisance Declared.

8.05.050 – Violations.

**8.05.010 – Definitions.**

Notwithstanding any other provision in this code, the following words and phrases shall, for the purposes of this Chapter, have the meanings respectively ascribed to them by this section, as follows:

(a) “**BUSINESS**” shall have the same meaning prescribed by California Public Resources Code section 42649.8 or successor statute, as may be amended from time to time, which includes but is not limited to commercial businesses, public agencies and multi-family dwellings.

(b) “**HAULER**” shall have the same meaning defined in section

8.04.040 of this code.

(c) “**ORGANIC WASTE**” shall have the same meaning prescribed by California Public Resources Code section 42649.8 or successor statute, as may be amended from time to time, and shall include green waste as defined by section 8.04.040 of this code.

(d) “**ORGANIC WASTE RECYCLING ORDINANCE**” refers to this Chapter of the Farmersville Municipal Code and the ordinance enacting it.

(e) “**THIS CODE**” and “**FMC**” refer to the Farmersville Municipal Code.

**8.05.020 – Availability of Organic Recycling Service; Hauler Requirements.**

(a) A hauler operating within the City of Farmersville must make available to all businesses and residents of the City of Farmersville the organic waste recycling service described in either subsection (b)(1) or subsection (b)(3) of California Public Resources Code section 42649.81, which must include a collection cycle which coincides with the collection of other integrated waste as provided in section 8.04.250 of this code and complies with said section of this code. The organic waste recycling services provided by a hauler must ensure that the organic waste goes through either a source separated or mixed processing system as identified in Public Resources Code section 42679.82(c)(3).

(b) The charges for receipt of organic waste recycling services from a hauler shall be established as provided in section 8.04.290 of this code. Pursuant to Public Resources Code section 42649.85, the City of Farmersville may, by a resolution of the City Council duly adopted after a public hearing, establish and charge each organic waste generator a fee sufficient to recover the City’s costs incurred in complying with Chapter 12.9 of Part 3 of Division 30 of the Public Resources Code. Charges and fees hereunder shall be collectable jointly with invoices issued pursuant to section 8.04.300 of this code.

(c) **Education and Outreach:** All hauler education and outreach to the City of Farmersville, and its businesses and residents, which is provided pursuant to Chapter 8.04 of this code, including under section 8.04.160 thereof, must cover the topic of organic waste recycling.

(d) **Customer Compliance Program:** A hauler must implement customer compliance program, which periodically estimates the amount of organic waste generated by each business to which the hauler provides any service within the City of Farmersville, in order to determine if organic waste recycling services are required to be arranged under the terms of this

Chapter of the FMC. A hauler's customer compliance program must be approved by the City Manager or his/her designee and need not cover any business which already receives organic waste recycling services. A customer compliance program which consists of periodic random assessments and inspections, of the waste generated by random business customers who do not already receive organic waste recycling services, shall be deemed sufficient if it requires the hauler to document the results of each such assessment and inspection on a standard form approved by the City Manager or his/her designee.

(e) **Notifications:** A hauler must within ten (10) business days notify, in writing, each business of the need to receive organic waste recycling services, and the hauler's reasonable requirements for receipt of such services, whenever it becomes reasonably apparent to the hauler that such services are required by this Chapter of the FMC, Public Resources Code section 42649.81 and any other applicable law, or the business is a customer who is not in compliance with the organic waste services requirements reasonably imposed by the hauler. The hauler must follow up with a business receiving any such notice within a reasonable time, not to exceed thirty (30) days, to inspect and assess whether said business appears to have come into compliance with matters identified in the written notice from the hauler. If reasonable steps to cure any non-compliance have been commenced by the business, the hauler may schedule a second follow-up assessment and inspection, not to exceed ninety (90) days after the original notice, to assess whether said business appears to have come into compliance with matters identified in the written notice from the hauler. Upon a second or further consecutive instance of apparent non-compliance with the same requirement, the hauler must provide written notice within ten (10) days to the City of Farmersville of all apparent items of non-compliance.

(f) **Periodic Reports from Hauler:** A hauler must periodically, and no less than quarterly, provide an accurate written report, which may be combined with a report provided pursuant to FMC § 8.04.150, to the City Council covering all of the following:

- (1) Any data and other information that cities are required to compile under federal and state law pertaining to organic waste recycling;
- (2) The number of known businesses within the City of Farmersville which are required to by state or federal law to engage organic waste recycling and the number of them which are engaged in organic waste recycling;
- (3) On and after August 1, 2017,
  - (i) the progress achieved in increasing compliance from businesses with organic waste recycling service requirements;

- (ii) the progress achieved in education and outreach pertaining to organic waste recycling requirements;
- (iii) the progress achieved in identification and monitoring of compliance of businesses who are required to engage in organic waste recycling;
- (iv) concerns and issues with any exemptions (if any) provided for in this Chapter of the FMC; and
- (v) concerns and other issues with the City of Farmersville's enforcement efforts, if any.

(g) **City Reports to State of California:** The City Manager or designee must ensure that all reports required by Public Resources Code section 42649.82(f) and the California Department of Resources Recycling and Recovery, or its successor agency, are timely prepared and obtain approval of the City Council at least thirty (30) days prior to the deadline for their submittal to the appropriate state agency.

**8.05.030 – Timing for Mandatory Commercial Organic Waste Recycling.**

(a) Each of the following businesses within the City of Farmersville, including all multi-family properties within the City of Farmersville with five (5) or more units, must within the later of thirty (30) days after enactment of this ordinance or after reaching the threshold below applicable to such business, arrange for and thereafter maintain periodic collection and recycling services from a hauler, for all organic waste generated by the business within the City of Farmersville:

- (1) On and after April 1, 2016, a business that generates eight (8) cubic yards or more of organic waste per week;
- (2) On and after January 1, 2017, a business that generates four (4) cubic yards or more of organic waste per week;
- (3) On and after January 1, 2019, a business that generates four (4) cubic yards or more of commercial solid waste; and
- (4) On or after January 1, 2020, if the state Department of Resources Recycling and Recovery determines that statewide disposal of organic waste has not been reduced to fifty percent (50%) of the level of disposal during 2014, a business that generates two (2) cubic yards or more per week of commercial solid waste, unless the Department of Resources Recycling and Recovery determines that requiring organic waste recycling by such a business will not result in significant additional reductions of organics disposal.

(b) A business which provides property management services and which receives integrated waste collection services for any commercial, institutional or multi-family residential property with five (5) or more units, is required to contract or otherwise make available organic waste recycling services for the occupants of such properties after the requirements of subsection (a) of this section are triggered.

(c) Each business within the City of Farmersville must not interfere with any City or hauler assessment or inspection of its waste carried out under Chapter 8.04 and Chapter 8.05 of this code.

**8.05.040 – Public Nuisance Declared.**

Each violation of any provision of this Chapter is hereby declared to be a public nuisance and may be abated pursuant to all available remedies.

**8.05.050 – Violations.**

Violations of this Chapter may be enforced under any applicable law. Notwithstanding any other provision of the Code, a violation of this Chapter shall not constitute a misdemeanor.

**Section 5. CEQA REVIEW.** The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15061(b)(3) [there is no possibility the activity in question may have a significant effect on the environment]. In addition to the foregoing general exemptions, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

**Section 6. NO LIABILITY.** The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Farmersville, or any official, employee or agent thereof.

**Section 7. PENDING ACTIONS.** Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any

court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

**Section 8. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Farmersville hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 9. CONSTRUCTION.** The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Farmersville Municipal Code as amended by this ordinance are substantially the same as provisions in the Farmersville Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

**Section 10. EFFECTIVE DATE.** The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the \_\_\_\_\_, a newspaper printed and published in the City of Farmersville, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the City

Council of the City of Farmersville, State of California, on \_\_\_\_\_, 2016 at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES: \_\_\_\_\_  
NOES: \_\_\_\_\_  
ABSTAIN: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

**DRAFT**

\_\_\_\_\_  
GREGORIO GOMEZ, Mayor  
CITY OF FARMERSVILLE

ATTEST: \_\_\_\_\_  
PATRICIA BUTTON, City Clerk  
CITY OF FARMERSVILLE

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