



DATE: November 9, 2021

CATEGORY: Public Hearing

DEPT.: Public Works

TITLE: **Mandatory Organic Waste Disposal Reduction Ordinance**

RECOMMENDATION

Introduce an Ordinance of the City of Mountain View Adding Article VI to Chapter 16 of the Mountain View City Code to Mandate Organic Waste Disposal Reduction, to be read in title only, further reading waived, and set second reading for December 14, 2021 (Attachment 1 to the Council report).

BACKGROUND

Methane is a greenhouse gas 84 times more potent than carbon dioxide. Landfilled organic wastes, such as food scraps, yard trimmings, paper, and cardboard, are the third largest source of methane in California. To reduce methane emissions and other short-lived climate pollutants produced from landfilling organic material, former Governor Jerry Brown signed into law the Short-Lived Climate Pollutant Reduction Act of 2016, Senate Bill (SB) 1383. This landmark solid waste legislation is the most prescriptive law since Assembly Bill 939 of 1989 that set a goal for jurisdictions to divert 50% of all solid waste from landfill by January 1, 2000.

SB 1383 establishes Statewide 2025 targets to reduce the landfilling of organic waste by 75% from 2014 levels and divert at least 20% of currently disposed edible food to food recovery organizations. Cities must adopt an ordinance or other enforceable mechanism to implement the SB 1383 regulations by January 1, 2022. While Mountain View may delegate authority to other agencies to meet certain regulatory requirements, the City is directly accountable for compliance with the SB 1383 mandates. The California Department of Resources Recycling and Recovery (CalRecycle) can assess penalties if the City fails to comply.

On October 5, 2021, Governor Gavin Newsom signed SB 619, which was enacted in response to the difficulty many local agencies are facing meeting the deadlines for complying with SB 1383 due to the COVID-19 pandemic. SB 619 does not automatically

waive the SB 1383 deadlines, but it allows local agencies to ask CalRecycle to waive fines that would otherwise apply for missing the deadlines.

On October 29, 2019, the Council approved the City's [Zero Waste Plan](#), which planned for the City's obligations and requirements to implement SB 1383. On [October 27, 2020](#), Council approved a new agreement with Recology Mountain View (Recology) to provide recyclable materials, organic materials, and solid water collection services from July 1, 2021 to June 30, 2031. This agreement with Recology includes several provisions related to the implementation of SB 1383, which are described in the Analysis section of this report.

ANALYSIS

The recommended ordinance (Attachment 1) specifies what Mountain View residents, businesses, waste haulers, City processing facilities, commercial edible food generators, and food recovery organizations must do to comply with the regulation's goal of reducing the disposal of organic waste. It is based on a model enforcement ordinance provided to jurisdictions by CalRecycle that incorporates the SB 1383 provisions and serves as the enforcement component the City must enact. Since SB 1383 is so prescriptive, the regulations do not provide much flexibility in the ordinance's content. The following key elements are included in the ordinance as required by SB 1383.

Mandatory Organic Waste Disposal Reduction Ordinance Summary

Single-Family and Multi-Family Residential Requirements

- Single-family households must subscribe to and participate in organics collection services at a service level sufficient to divert all organic waste generated (food scraps, food-soiled paper, and plant debris).
- Multi-family property owners and managers must subscribe to and participate in organics collection services at a service level sufficient to divert all organic waste generated (food scraps, food-soiled paper, and plant debris).
- Residents are not allowed to put trash or other nonorganic material in their organics container.
- Multi-family property owners and managers are required to, before or within 14 days of tenant move-in, give information about the organics and recycling programs, collection container locations, and participation instructions for each property.

- City enforcement officials will not be allowed to enter the interior of any private residential property for inspection related to organics program compliance.

Business Requirements

- Commercial businesses must subscribe to the City's three-container collection for trash, recycling, and organics. The service level must be sufficient to divert all organic waste generated (food scraps, food-soiled paper, and plant debris). Employees are not allowed to put trash or other nonorganic material in the organics containers.
- Businesses are required to provide enough indoor and outdoor organics collection containers (with proper labels and color-coding) for employees, contractors, tenants, and customers in all areas where organic material is generated. The containers and messaging must be consistent with the City's organics collection program.
- Businesses must conduct employee training about accepted materials and nonaccepted materials in the organics program. Businesses must periodically inspect collection containers for all three streams and inform employees about proper separation if incorrect material sorting occurs.
- Businesses must annually distribute educational information to employees, contractors, tenants, and customers about the organics program, describing proper organics and recycling sorting.
- Before or within 14 days of tenant move-in, commercial property owners or managers must give information about the organics and recycling programs, collection container locations, and participation instructions for each property.
- Businesses must allow City representatives or their designees (e.g., waste hauler staff) to access their property to inspect the organics collection program to monitor and confirm compliance with the SB 1383 regulations.

Hauler and Facility Operator Requirements

- Recology, Mountain View's residential and commercial organics collection service provider, must identify in its agreement with the City which facilities collected organic waste will be hauled to. The City's agreement with Recology meets this requirement.

- Recology is also required to include in its services agreement with the City the following measure to comply with SB 1383: education, equipment, signage, container labeling, container color, contamination monitoring, and reporting. The City's agreement with Recology meets this requirement.
- Facilities used by the hauler must process the organic waste for recycling by turning it into compost, a soil amendment.
- Organics processing facilities must provide, if requested by the City, information about their facility, operations, and activities. This includes current processing tonnages and permitted capacity for the City's planning purposes.
- Self-haulers, such as landscaping firms, must also source separate recyclable materials and organic waste; haul their recyclable waste to facilities that recover the recyclable materials and organic waste to an appropriate organic waste-processing facility; and, in some cases, maintain records of the amount of organic waste delivered.

Commercial Edible Food Generators and Food Recovery Organization Requirements

- Tier One generators (grocery stores, wholesale food vendors, and food distributors) must begin donating and tracking their surplus edible food sent to food recovery organizations by 2022.
- Tier Two generators (restaurants, hotels, health facilities, and State and local education agencies) must comply by 2024. Tier Two includes large venues or large event operators (e.g., the Shoreline Amphitheatre).
 - These entities must recover the maximum amount of edible food that would otherwise be disposed. They are required to enter into contracts with food-recovery organizations or food-recovery services.
- Tier One and Tier Two generators shall allow City enforcement officials to access the premises for inspection and review of records documenting their contracts with edible food-recovery organizations or services.
- Edible food generators must submit Food-Recovery Reports to the City or City-authorized entity with specified information about their food-recovery activities.

- Food-recovery organizations and services located in the City must maintain and submit Food-Recovery Reports to City enforcement officials about commercial generators they have contracts with.

City SB 1383 Requirements

Separate from the enforcement ordinance that places organics mandates on residents, businesses, and other stakeholders, the City is required to implement the following measures pursuant to SB 1383.

Organics Collection and Recycling

The City must provide organic waste collection to residents and businesses, including multi-family properties. Mountain View first implemented commercial organics collection in 2011. In 2017, the residential curbside yard trimmings collection program expanded to accept food scraps and food-soiled paper. Multi-family organics collection began as a pilot program in 2018 for a handful of residential complexes that voluntarily subscribed and is now available to all multi-family properties with over 80 complexes participating. Aggressive outreach to initiate organics programs at nonparticipating commercial and multi-family accounts will continue. The City's Recology services agreement aligns with SB 1383 by including these comprehensive organics collection services.

Collection Container Colors and Signage Standardization

The City of Mountain View is responsible for ensuring all sectors have State-mandated color-coded containers of green for organics, blue for recycling, and grey or black for trash. The Recology agreement includes a replacement timeline for noncompliant carts and bins on a schedule that makes sense for the relative condition of the containers, results in lower cost and drives labor efficiencies, and provides consistent communitywide program messaging.

The City began replacing residential curbside split-recycling carts with SB 1383-compliant carts this summer since they have exceeded their 10-year useful life (last Citywide exchange was in 2004). Citywide replacement will be completed by December 2021. The new recycling lid colors are dark blue for cardboard/paper and light blue for containers. Multi-family dual-stream recycling carts are scheduled for replacement in 2022 and all organics carts in 2023. Each new cart will have updated CalRecycle-compliant signage indicating acceptable and not acceptable items for the particular material stream. All removed carts not in good condition will be recycled, not landfilled.

Recycling carts in good condition will be cleaned by Recology and lids replaced with the compliant colors for reuse.

Recycled Content Paper and Organic Waste Products

SB 1383 directs the City to procure a specified amount of recycled organic waste, such as compost, mulch, or renewable natural gas, and maintain records to report to CalRecycle. CalRecycle's population-based procurement calculation for Mountain View is 6,582 organic waste tons per year.

The City annually purchases approximately 40 to 50 tons of compost and mulch for parks and other public landscaping. In addition, roughly 225 tons of compost are available to Mountain View residents for free year-round pick-up at the Sunnyvale Materials Recovery and Transfer (SMaRT®) Station. The Recology services agreement has an option to buy 1,400 tons of compost discounted at 25% of the market price and hold a compost giveaway event. This provides a current annual procurement potential of approximately 1,670 tons for organic waste products, which is far below the CalRecycle target of 6,582 organic waste tons.

Most other cities are also facing a significant challenge in meeting the high procurement of organic waste products requirements. Per SB 1383, the City does not need to apply the compost or other products for use in our community (e.g., the City could buy compost for rural farmers outside the City), but the material must be obtained for use. Solid Waste staff is working with other County jurisdictions to explore opportunities, including a renewable natural gas procurement through regional partnerships.

The City is also required to buy recycled-content paper products and maintain purchasing records for CalRecycle review. Examples of mandated recycled-content paper products include office paper, notepads, file folders, and janitorial supplies (paper towels, toilet paper, seat liners). Mountain View has an existing Environmentally Preferable Purchasing Policy, established in 2008, which requires the City to comply with environmental legislative and/or regulatory requirements, which would include SB 1383 regulations. The Solid Waste Section is working with City Purchasing staff to comply with specific SB 1383 requirements, including analysis of current paper product procurement practices and reporting capabilities. An internal resource guide is being developed for staff as well. A November training session is planned to review the SB 1383 purchasing guidelines and procedures with employees involved in procuring these supplies.

Edible Food Recovery Program

Almost 1 in 4 Californians do not reliably have enough to eat. To reduce food waste and food insecurity, SB 1383 aims to redistribute surplus edible food to those in need and prevent wasteful disposal of this valuable resource.

Mountain View is working collaboratively with Santa Clara cities and the County to provide covered entities and jurisdictions a uniform regional approach for edible food recovery and reporting. The Implementation Committee for the Recycling and Waste Reduction Commission of Santa Clara County hired Joint Venture Silicon Valley (JVSV) to lead this effort. JVSV designed a Countywide edible food recovery program website, outreach pieces, and technical assistance plan. JVSV finalized a draft model Countywide edible food ordinance for incorporation as a section in each municipality's SB 1383 ordinance. The draft model ordinance was based off CalRecycle model language with extensive jurisdiction input and legal review. The provisions of the model ordinance are incorporated into the City's ordinance, including a separate enforcement section specifically related to the edible food recovery program to ensure a streamlined, Countywide approach. A long-term agency to house the Countywide edible food recovery program is not yet known, but once determined, a Memorandum of Understanding will be available for the cities to participate in the regional program.

There are 16 Tier One generators (grocery stores, wholesale food vendors, and food distributors) in Mountain View. Identification of Tier Two generators (restaurants, hotels, health facilities, and State and local education agencies) is in progress and will be completed by the end of this year. In August 2021, JVSV and City staff conducted in-person outreach at Tier One locations as required by SB 1383. Business were informed of the regulations and staff received preliminary information about their current edible food generation and practices. Solid Waste staff also mailed notification letters to all covered Tier One businesses. JVSV separately contacted corporate chains with multiple locations in the region to ensure area managers knew the requirements for all their Santa Clara County locations.

A benefit of these site visits was gathering SB 1383-required data to assist in capacity planning for food recovery infrastructure. Santa Clara County can then report to CalRecycle and work with food-recovery stakeholders to resolve any gaps between recovery capacity needed and existing infrastructure.

Education and Outreach

The City must inform residents, businesses, haulers, self-haulers, and solid waste facilities about the terms of SB 1383 by February 1, 2022. Staff started educating these

community members and partners about SB 1383 over the last year through articles in the *Resource* guide newsletters, Sustainability monthly newsletter, City Hall Connection, and direct communications to impacted businesses and multi-family properties. New commercial and multi-family brochures are being developed as another outreach tool for distribution in early 2022 before the February deadline.

In addition, the Recology services agreement includes Recology providing more outreach staff consisting of two full-time employees and one route auditor dedicated to helping residents, businesses, and schools implement new organics services or improve existing programs for SB 1383 compliance.

Monitoring and Enforcement

The recommended ordinance (Attachment 1) includes City enforcement oversight for the SB 1383 regulations with fines for noncompliance commencing no later than January 1, 2024. Penalties for noncompliance will be subject to the City's administrative penalties as set forth in Chapter 1 of the City Code, and, as noted above, noncompliance with the edible food recovery portion of the proposed ordinance will be subject to separate enforcement and penalty provisions consistent with the Countywide approach.

To assess progress towards meeting the SB 1383 mandates, the City or designee must conduct contamination monitoring through annual audits of all collection routes and provide feedback to residents and business that have trash or other unacceptable items in their organics container. These requirements were integrated into the Recology agreement with a new route auditor position hired in August 2021. This position is responsible for audits and follow-up communication to customers about contamination.

During calendar years 2022 and 2023, Recology and the City will provide businesses with educational resources to understand the regulations and support compliance prior to issuance of penalties in 2024. Once enforcement begins, the City and Recology will coordinate a process to inspect and issue violations to noncompliant accounts. Businesses may apply for a waiver if they do not generate significant quantities (at least 20 gallons) of organic material weekly or have physical space constraints inhibiting placement of an organics container.

FISCAL IMPACT

As presented to Council when the Zero Waste Plan was adopted on October 29, 2019, additional staffing resources are necessary to successfully carry out the short-, medium-, and long-term zero-waste initiatives. Implementation of the plan's "Mandatory Participation Ordinance," which is the ordinance proposed here to comply with SB 1383,

is anticipated to require one full-time equivalent ongoing position. This role would manage inspection and enforcement, record-keeping and reporting, and other aspects to implement the regulations. This additional staffing would be funded by the Solid Waste Fund and will be requested as part of the annual budget process for Fiscal Year 2022-23.

There are anticipated costs associated with the SB 1383 implementing regulations (e.g., increased organics collection routes, containers, signage, trucks, etc.) incorporated into the City's collection services agreement with Recology and funded mainly by the rate-payers.

The cost to meet SB 1383 organic waste products procurement requirements is not yet known as options are still being researched, including bulk compost or regional purchase of renewable natural gas. Staff will return to Council once the costs for various options are known to seek policy and funding direction.

Solid waste rate increases will likely be required to fund the costs of implementing SB 1383, including the additional City staffing required, the Recology services agreement provisions, and the procurement of organic waste products. A cost-of-service study will be conducted in Fiscal Year 2021-22 to evaluate rate increases and/or changes to the rate structure to cover the costs of SB 1383 implementation and other solid waste services.

CONCLUSION

SB 1383 is a prescriptive law intended to mitigate methane emissions by reducing Statewide organic waste disposal 75% from 2014 levels and recovery of at least 20% of currently disposed edible food by 2025. Jurisdictions across California must implement enforceable laws to mandate organic waste collection for recycling, procure recycled content paper and organic waste products, develop an edible food recovery program, and conduct public education and enforcement. By adopting this recommended ordinance, Council will facilitate the City of Mountain View's compliance with SB 1383 and avoid potential CalRecycle penalties.

ALTERNATIVES

1. Do not introduce the attached ordinance.
2. Propose modifications to the attached ordinance.
3. Provide other direction.

PUBLIC NOTICING

Agenda posting. The public hearing notice was published in the *Daily Post Journal*, and a courtesy noticed was published in the *Mountain View Voice*. In addition to the City's standard agenda posting requirements, Solid Waste provided notice of this meeting on the City's Recycling and Zero Waste website and via social media and emails to community members who signed up to receive updates about the City's Sustainability and Economic Development programs.

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Attachment: 1. Mandatory Organic Waste Disposal Reduction Ordinance