



DATE: September 13, 2021

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT Countywide Model Ordinance to Comply with Senate Bill 1383

RECOMMENDATION

That the Council Sustainability Committee (CSC) reviews and comments on this report, and recommends that Council adopt for Hayward an Opt-in Countywide Model Organics Reduction and Recycling Ordinance in compliance with Senate Bill (SB) 1383.

SUMMARY

SB 1383 is a state law that aims to achieve a statewide reduction in emissions of short-lived climate pollutants by reducing the amount of organic waste disposed. The law requires that by January 1, 2022, jurisdictions adopt and enforce an ordinance that will implement SB 1383 regulations. To assist member agencies and to create consistent requirements throughout Alameda County, the Alameda County Waste Management Authority (ACWMA) adopted a countywide model ordinance that can serve as the enforcement mechanism for Alameda County jurisdictions. The ordinance is titled the Organics Reduction and Recycling Ordinance (ORRO). It was adopted by the ACWMA on July 28, 2021, and supersedes the existing Mandatory Recycling Ordinance (MRO). In order for the ORRO to apply to Hayward, Council must adopt an opt-in ordinance. The ORRO will become effective, and the MRO will be repealed on January 1, 2022.

BACKGROUND

The intent of SB 1383 is to reduce greenhouse gas emissions in light of global climate change. When compostable materials such as food scraps, yard trimmings, and paper products break down in a landfill, they become powerful contributors to greenhouse gas emissions. Compostable materials such as food waste and paper decompose anaerobically, i.e., without air, in a landfill, producing methane, a greenhouse gas with significant global warming potential.

Local jurisdictions are the primary entities responsible for implementation and enforcement of SB 1383 requirements. The requirements affect all organic waste generators in the residential and commercial sectors. Waste haulers, food recovery

organizations, and procurement partners also have significant roles to play to advance compliance.

SB 1383 regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance to implement relevant provisions of the SB 1383 regulations. In response to this mandate, the ACWMA's member agencies requested that it adopt a countywide ordinance in order to establish a uniform and comprehensive countywide system to adhere to regulations required by the SB 1383, including the regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations.

In January of 2012, ACWMA enacted the MRO as Ordinance 2012-01 requiring businesses, institutions, and multi-family properties with five or more units to sort their recyclables from their trash. Hayward adopted the ordinance in January of 2012. On January 1, 2022, the ORRO will become effective and repeal the MRO.

On July 8, 2019¹ staff presented a report on SB 1383 to the CSC that highlighted the major elements of the law and sought feedback the CSC. Major elements of the law include diverting 75% of organics statewide from landfill and recovering 20% of edible food for human consumption by 2025; requiring the color of collection containers be standardized throughout the state with gray for trash, blue for recycling and green for organics; and requiring jurisdictions establish an ordinance to enforce the law. SB 1383 also establishes procurement requirements for recovered organic waste products and recycled content paper products. At the July 8, 2019, meeting, the CSC expressed concern about the requirements for standardizing cart color schemes across the state because of the potential for waste caused by disposing of functional carts because they are not the correct color.

On May 10, 2021², staff presented an informational report to the CSC that provided an overview of the countywide model ORRO as well as a draft of the ordinance. On July 28, 2021, the ACWMA adopted the ORRO as Ordinance 2021-01 (Attachment II). It will become effective and repeal the MRO on January 1, 2022. In order for the ORRO to apply in Hayward, Council must adopt an Opt-In ordinance (Attachment III) adopting the ORRO.

DISCUSSION

SB 1383 requires extensive efforts by jurisdictions to reduce the amount of organics sent to landfill and increase recycling. The ORRO aims to help member agencies with SB 1383 compliance and create a consistent set of requirements across the County. To ensure compliance with CalRecycle regulations, the ACWMA primarily based the ORRO on a Model Enforcement Ordinance provided by CalRecycle. The prescriptive nature of SB 1383 regulations leaves little flexibility in the ordinance's content.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=4056382&GUID=2F021C31-1392-42D1-B7A6-A2718C8B416D>

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=4938513&GUID=ED0F4964-0887-475A-8487-FE30C14CCB44&Options=&Search=>

ACWMA has provided a draft Opt-In Ordinance template that can be customized for adoption to designate the ORRO as Hayward’s required enforcement mechanism for SB 1383 regulations. The Opt-In Ordinance template is attached to this report as Attachment III.

If Hayward does not adopt the ORRO, Hayward would need to draft, enact and enforce its own ordinance to comply with CalRecycle regulations. Hayward would also risk not having requirements that align with other jurisdictions in the County.

The ACWMA and the City are following the schedule listed below to adopt the Countywide SB 1383 Ordinance by CalRecycle’s deadline:

- April 29, 2021 Technical Advisory Committee (TAC) review draft Ordinance
- May 5, 2021 City Managers meeting - overview presentation
- May 6, 2021 Regular TAC meeting – Review of Ordinance
- May 10, 2021 Review of draft Ordinance by CSC
- May 14, 2021 Deadline for comment on draft Ordinance and Opt-in Ordinance
- May 26, 2021 Informational item on the Ordinance at WMA Board meeting
- June 23, 2021 1st reading at WMA Board meeting
- July 28, 2021 2nd reading and adoption at WMA Board meeting
- September 2021 Review by and recommendation from CSC
- October 26, 2021 1st reading by Council
- November 2021 2nd reading and adoption by Council
- December 2, 2021 Deadline for Jurisdictions to adopt Opt-in Ordinance to meet CalRecycle January 1, 2022 deadline

FISCAL/ECONOMIC IMPACTS

The requirements of SB 1383 will have fiscal impacts to the City, such as procurement of compost and compliance with reporting requirements, but the magnitude of those impacts are unknown at this time. However, the adoption of the Opt-in Ordinance to enact the Countywide SB 1383 Ordinance will not have direct fiscal impacts.

The requirements of SB 1383 will have economic impacts to residents and businesses of Hayward, such as mandatory organics service and increased time spent sorting materials. However, the adoption of the Opt-in Ordinance to enact the Countywide SB 1383 Ordinance will not have direct economic impacts.

STRATEGIC ROADMAP

SB 1383 does not directly relate to one of Council’s six Strategic Priorities.

SUSTAINABILITY FEATURES

CalRecycle's SB 1383 regulations are intended to reduce GHG emissions, develop markets for recycled organic material, and encourage more efficient use of edible food resources across the state. If new regulations achieve their intended goals, then California and Hayward will decrease their contribution to climate change and consumption of resources.

Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural resources, and plays an important role in making a community sustainable.

PUBLIC CONTACT

The ACWMA is planning outreach to businesses and multi-family dwellings in the fall of 2021 regarding the Countywide SB 1383 Ordinance. In addition, staff intends to distribute informational pieces to all businesses and multi-family properties in Hayward with information about the ORRO.

NEXT STEPS

Upon a recommendation from the CSC, staff will present the Opt-In ordinance to Council and recommend that Council adopt the Organics Reduction and Recycling Ordinance, Ordinance 2021-01.

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Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager