

DRAFT

07/20/21

ORDINANCE NO. _____

ORDINANCE OF THE [Jurisdiction Name] OPTING IN TO THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY'S ORGANICS REDUCTION AND RECYCLING ORDINANCE

The [governing body] of [jurisdiction name] (“[abbreviation of jurisdiction name, e.g., City, County, District]”) hereby ordains as follows:

Section 1. Purpose and Findings.

- (a) The purpose of this Ordinance is to comply with certain state laws requiring cities, counties, and special districts providing solid waste collection services to adopt ordinances and take other measures to reduce the amount of organic and recyclable materials deposited in landfills from commercial and residential generators, more specifically the Short-Lived Climate Pollutants Organic Waste Reduction regulations adopted pursuant to Senate Bill 1383 (Statutes of 2016) set forth in the California Code of Regulations (the “SB 1383 Regulations”).
- (b) The [abbreviation of jurisdiction name] is a member of the Alameda County Waste Management Authority (“WMA”). The WMA is a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts.
- (c) The SB 1383 Regulations require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism applicable to residents and businesses generating or processing solid waste to implement relevant provisions of the SB 1383 Regulations. In response to this mandate, the WMA’s member agencies requested that it adopt an ordinance to establish a uniform and comprehensive countywide system to establish the local regulations required by the SB 1383 Regulations concerning 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.
- (d) On July 28, 2021 the WMA adopted the Organics Reduction and Recycling Ordinance (“ORRO”), Ordinance 2021-01, attached hereto as Exhibit A. In order for the ORRO to apply in the [abbreviation of jurisdiction name], the [abbreviation of jurisdiction name] must adopt an ordinance declaring that it will apply within the [abbreviation of jurisdiction name].
- (e) The [abbreviation of jurisdiction name] wishes the ORRO to apply in [jurisdiction name].

- (f) *[Optional: If the member agency would like to delegate enforcement authority to the WMA or other entities as contemplated in the ORRO include this finding. Designations are not required to be made concurrently with the Opt-In ordinance.]*

The ORRO provides jurisdictions with the option to grant enforcement authority over various of its provisions to agencies specified in the ORRO. The *[abbreviation of jurisdiction name]* is making designations by approving agreements with other entities concurrently with adoption of this ordinance.

- (g) *[Optional- this finding is not required to opt in to the ORRO but member agencies may wish to include it or something similar so that the ordinance provides a “one stop shop” for demonstrating compliance with the 1383 Regulations’ requirements concerning ordinances and other enforceable mechanisms that are not covered by the ORRO.]*

The SB 1383 Regulations also require cities, counties, and special districts providing solid waste collection services to adopt and enforce an ordinance or other enforceable mechanism concerning the CALGreen Building Standards, the Model Water Efficient Landscape Ordinance, and Procurement of Recovered Organic Waste Products. These requirements are addressed in *[list how existing ordinances or other enforceable mechanisms satisfy these requirements or how amendments adopted as part of the ordinance or in as separate process will address those requirements.]*

Section 2. Adoption.

The *[jurisdiction name]* hereby declares that the Organics Reduction and Recycling Ordinance as set forth in Exhibit A to be effective in the *[abbreviation of jurisdiction name]* beginning on January 1, 2022.

Section 3. Conforming Amendments. [if needed]

[This section is needed only if the relevant Code or ordinance includes provisions that are inconsistent with the ORRO. If the jurisdiction needs to adopt new fees or charges for ordinance implementation or amendments to its MWELo, CalGreen, or procurement ordinances to comply with portions of the SB 1383 regulations that are not covered by the ORRO, it may include them here or adopt separately. (Note that the Oro Loma and Castro Valley Sanitary Districts are not subject to the SB 1383 regulations concerning MWELo, CalGreen, or procurement.) Attachment B to this template includes a definition of “mulch” for use by member agencies that wish to include that in their procurement ordinance together with definitions of MWELo and CalGreen in the event that they will be helpful in drafting.]

The *[name of jurisdiction’s relevant code or other ordinance]* is hereby amended as set forth in Attachment B.

Section 4. Enforcement Agency Authorization.

[This section assumes that Member agencies will wish to designate the WMA and ACDEH as enforcement agencies. Because some member agencies may bring the ordinance to their governing bodies before there is a template agreement with ACDEH, only model language designating the WMA as an enforcement agency is included below at this time. The WMA will provide proposed model language to designate ACDEH as an enforcement agency when an agreement is reached. The language allows subsequent designations to be made by resolution.]

(a) The WMA is authorized and designated to carry out the responsibilities specified in Exhibit C to this ordinance effective January 1, 2022 and the City Manager is authorized to enter an agreement with the WMA to implement this authorization and designation.

(c) The authorization and designation above does not limit the City's authority to independently carry out some or all of the responsibilities designated above. The City retains full authority to implement and enforce the ORRO.

(d) The City Council may, by resolution, modify Exhibit C and may authorize and designate other entities to carry out responsibilities under this ordinance and no amendment of this ordinance shall be required.

Section 5. Severance Clause.

The *[jurisdiction's governing body]* declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the *[name of jurisdiction's governing body]* declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

Section 6. California Environmental Quality Act

This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions which maintain the already established requirements of the Waste Management Authority's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance 2012-1; also known as the Mandatory Recycling Ordinance) which currently apply in *[jurisdiction name]*, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. . No mitigation measures identified in the EIR are applicable to *[jurisdiction*

name]'s enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required. On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines of as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment. *[Note: Member agencies should review any conforming amendments and other actions taken in connection with the opt-in ordinance to ensure that the statements above apply.]*

Section 7. Publication.

A summary of this ordinance shall be published in a newspaper of general circulation of the *[jurisdiction name]* within fifteen days after its adoption. *[Modify as needed to track specific ordinance adoption requirements applicable to the jurisdiction imposed by State law or charter.]*

The foregoing ordinance was introduced at the regular meeting of the *[jurisdiction's governing body]* of the *[jurisdiction name]* held on ____, 2021 and was adopted by the following vote on ____, 2021. *[Modify as needed to track specific ordinance adoption requirements applicable to the jurisdiction imposed by state law or charter.]*

[Insert jurisdiction's standard wording showing evidence of adoption here (e.g., governing body vote, signature of presiding officer, and attestation of clerk).]

Attachment A

**Alameda County Waste Management Authority Ordinance 2021-01: Organics
Reduction and Recycling Ordinance**

[Attach ordinance.]

Attachment B – Conforming Amendments

In order to ensure consistency between the [*jurisdiction's*] Code and the Organics Reduction and Recycling Ordinance, the sections of the [*jurisdiction's*] Code set forth below are amended or adopted as set forth below. Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in *italics* is explanatory and is not an amendment to the Code. Where the explanatory text indicates that a new section is being added to the [*jurisdiction's*] Code, the new section is shown in plain text.

[Insert conforming Amendments Here]

Attachment C
Enforcement Agency Authorization – Waste Management Authority

[*Jurisdiction name*] designates the WMA as an Enforcement Agency for Sections 5, 6, 7, 8, 9(a)(2) , 9(b), 10, 11, and 12 of the ORRO. Without limiting the generality of the foregoing, the authority provided by this designation includes the authority to request information or conduct inspections to verify compliance with any of the above sections to support WMA's enforcement activities.

Supplemental Notes

1. **Mulch Standards** - The SB 1383 Regulations require cities and counties choosing to procure mulch towards satisfaction of their procurement requirements to set specific standards for that mulch by ordinance or other enforceable mechanism such as a contract. The following is provided for agencies wishing to satisfy the requirement via ordinance. Agencies may wish to develop their own standards tracking agency standards and the CalRecycle regulations. This is not required as part of the ORRO ordinance.

Mulch Standards. To be applied to *[jurisdiction's]* procurement target established by SB 1383 regulations, any mulch sold or otherwise provided to *[jurisdiction]* shall¹:

- (a) Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in subsections 17852(a)(24.5)(A)1. through 3 of Title 14 of the California Code of Regulations; and
- (b) Be produced at one or more of the following:
 - (1) A compostable material handling operation or facility as defined in section 17852(a)(12) of Title 14 of the California Code of Regulations, other than a chipping and grinding operation or facility as defined in Section 17852(a)(10) of Title 14 of the California Code of Regulations, that is permitted or authorized under this division; or
 - (2) A transfer/processing facility or transfer/processing operation as defined in Sections 17402(a)(30) and (31) of Title 14 of the California Code of Regulations, respectively, that is permitted or authorized under this division; or
 - (3) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.

¹ As drafted, this would apply to all mulch sold to the jurisdiction. If the jurisdiction wishes to preserve the option to acquire mulch that does not meet CalRecycle standards (or count towards procurement obligations) this introductory section can be revised to state: "Any mulch sold or otherwise provided to *[jurisdiction]* in connection with *[jurisdiction]*'s compliance with the State of California's Recovered Organic Waste Product Procurement Target requirements set forth in section 18993.1 of Title 14 of the California Code of Regulations shall."

2. CalGreen and MWELO

Some member agencies suggested it would be useful to provide definitions of CalGreen and MWELO for jurisdictions wishing to adopt code amendments pertaining to those aspects of the SB 1383 regulations.

CalGreen means the California Green Building Standards Code, California Code of Regulations, Title 24, Part 11 as amended July 1, 28 2019 and effective January 1, 2020. as amended, supplemented, superseded, and replaced from time to time.

MWELLO means the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations as amended September 15, 2015 as amended, supplemented, superseded, and replaced from time to time.

3. Designation of Enforcement Agencies

Member agencies may wish to designate the WMA, the Alameda County Department of Environmental Health, or other entities to act as an additional Enforcement Agency at the same time that they opt-in to the ORRO. The SB 1383 Regulations require that this designation be by a contract or other agreement accepted by the agency and the designee. StopWaste staff is working to develop model agreements that can be used for this purpose. In the opt-in staff report member agencies may wish to use a table such as this to summarize the enforcement delegations. Specific responsibilities would be detailed in the agreements themselves.

<i>[Note: Member agencies should edit this chart to reflect the enforcement authorizations that they wish to make.]</i>	
ORRO Provision	Enforcement Agency Authorization
Section 5 – Requirements for Commercial Business Generators	- Alameda County Waste Management Authority
Section 6 – Waivers for Commercial Business Generators	- Alameda County Waste Management Authority
Section 7 – Requirements for Commercial Edible Food Generators	- Alameda County Waste Management Authority
Section 8 – Requirements for Food Recovery Organizations and Services	- Alameda County Waste Management Authority
Section 9(a)(2), 9(b) – Requirements for Regulated Haulers	- Alameda County Waste Management Authority
Section 10 – Requirements for Self-Haulers	- Alameda County Waste Management Authority