



CITY OF BEVERLY HILLS
PUBLIC WORKS DEPARTMENT
MEMORANDUM

TO: Public Works Commission

FROM: Robert Welch, P.E., Utilities General Manager
Colonel J. Burnley, Solid Waste Manager
Melissa Gomez, Senior Management Analyst

DATE: November 10, 2021

SUBJECT: Mandatory Organic Waste Disposal Reduction Ordinance - Draft

ATTACHMENT:

1. Mandatory Organic Waste Disposal Reduction Ordinance – Draft
2. Commercial Customers with Existing Organics Collection Services
3. Beverly Hills/Athens Commercial Recycling Brochure

RECOMMENDATION

Staff is recommending that the Public Works Commission support the Mandatory Organic Waste Disposal Reduction Ordinance draft to be presented to City Council for adoption.

INTRODUCTION

Senate Bill 1383 (SB 1383) requires the City (and other jurisdictions in the State, including Counties) to adopt an ordinance by January 1, 2022, to ensure and enforce that all residents, and business/property owners in the City, comply with SB 1383 by subscribing to the City's organic waste collection services effective by January 1, 2022.

BACKGROUND

SB 1383 was signed into law on September 19, 2016, calling to reduce organic waste disposal by 75% and increase edible food recovery by 20% by 2025. SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years and requires jurisdictions to implement a mandatory organic recycling ordinance by January 1, 2022. This legislation requires all businesses, residents, multi-family apartments, and condominiums to have access to recycling programs that capture food scraps, food-soiled paper, landscaping waste, among other organic waste materials.

As a result of SB 1383, the California Department of Resources Recycling and Recovery (CalRecycle), tasked with administering California's waste and recycling programs, developed prescriptive regulations to achieve the State's organic waste disposal goals by 2025. Over the last four years, CalRecycle conducted informal hearings with local governments and stakeholders to develop regulations to achieve the State's organic waste reduction mandates. In November 2020, CalRecycle released the final regulations for SB 1383. Since the regulations

will become effective January 1, 2022, local governments had less than (13) months to develop and roll out a new waste management system, including adopting a new ordinance.

On May 13, 2021, staff presented an overview of SB 1383 requirements for jurisdictions to the Public Works Commission. An action item from that meeting was to return to the Public Works Commission with the draft ordinance for review and support, before presenting the draft ordinance to City Council for adoption.

SB 1383 went through an Environmental Impact Report (EIR) process at the State level and the Mandatory Organic Waste Disposal Reduction Ordinance draft reflects the goals identified and approved in the State Environmental Impact Report (EIR), <https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/slcp/sb1383eir.pdf>. There will be other types of recycling legislative bills working through the state legislative process that will be evaluated by staff and discussed with the Public Works Commission as they pertain to our program. At such time, Public Works Commission may establish recommendations.

DISCUSSION

Requirements of SB 1383

The mandate for commercial recycling (AB 341, Chesbro, Chapter 476, Statutes of 2011) and commercial organics recycling (AB 1826, Chesbro, Chapter 727, Statutes of 2014) are incorporated into SB 1383 regulations. The City is required to implement the following practices to be compliant with SB 1383 and the regulations established by CalRecycle:

- Provide organic material collection to all residents and businesses;
- Inspect commercial and residential containers, and enforce compliance with SB1383 by adopting an enforcement ordinance before January 1, 2022;
- Establish a food recovery program to recover edible food from the landfill;
- Conduct outreach and education to all affected parties, including generators, haulers, facilities, edible food recovery organizations, and City departments;
- Procurement requirements for direct service providers and vendors servicing the City for certain recyclable paper products and organic waste products such as compost, mulch, and renewable natural gas; and
- Maintain accurate and timely records of SB 1383 compliance for annual reporting requirements.

On January 1, 2022, CalRecycle's regulations will become enforceable and require each jurisdiction to adopt a mandatory recycling ordinance. SB 1383 allows cities to take an educational and non-punitive approach to enforcement for the first two years the ordinance is in effect (2022 and 2023). This educational approach will allow the City and its franchise waste hauler to work with residents and businesses informing them of the State law requirements.

Jurisdictions in Non-Compliance to SB 1383

While the City expects to gain compliance from residents and businesses, SB 1383 regulations provide CalRecycle with the ability to engage in enforcement actions of its own against any jurisdiction if the designated level of compliance is not met. These actions may include;

- Conducting more frequent inspections;
- Taking over direct enforcement on non-compliant businesses within the City;
- Establishing a schedule for City compliance and a probationary period, requiring a work plan and that the jurisdiction demonstrates it has sufficient staffing to implement the requirements of the law; and/or
- Seeking administrative penalties against the City of up to \$10,000 per day.

With the late adoption of SB 1383 and the economic challenges caused by the global pandemic shut down, Senate Bill 619 (Laird) (SB 619) was passed. The passage of SB 619 on September 9, 2021, establishes a process for jurisdictions to receive relief from CalRecycle penalties for SB 1383 violations through 2022. For jurisdictions to qualify for this relief, they will need to submit a “notification of intent to comply” (NOIC) with SB 1383 to CalRecycle by March 1, 2022. Staff is in communication with CalRecycle concerning the SB 1383 implementation roll-out and is prepared to send a (NOIC) before March 1, 2022. With the City’s adoption of an ordinance, and submittal of the NOIC, if needed, the City will have laid the foundation to comply with requirements in SB 1383.

Please note that the requirement for the City’s enforcement against the citizens and businesses within the City who are non-compliant to SB 1383 is on a different schedule. The regulations require the City to take enforcement action against generators that are non-compliant no later than January 1, 2024.

Elements of the Draft Ordinance

Article 5 - Mandatory Organic Waste Disposal Reduction

1. Scope of Article (Sec. 6-1501)
2. Definitions (Sec. 6-1-502)
3. Requirements for Single-Family Organic Waste Generators (Sec. 6-1-503)
4. Requirements for Commercial Businesses (Sec. 6-1-504)
5. Waivers for Generators (Sec. 6-1-505)
6. Requirements for Commercial Edible Food Generators (Sec. 6-1-506)
7. Requirements for Food Recovery Organizations and Services (Sec. 6-1-507)
8. Requirements for Haulers, Facility Operators and Community Composting (Sec. 6-1-508)
9. Self-Hauler Requirements (Sec. 6-1-509)
10. Procurement Requirements for Direct Service Providers, and Vendors (Sec. 6-1-510)
11. Inspections and Investigations by City (Sec. 6-1-511)
12. Enforcement (Sec. 6-1-512)

See Attachment 1 – Complete Draft Ordinance

Please note the City Attorney’s office is working on some procedural due process language for Section 6-1-505. The procedural language will be completed by legal before presenting to City Council for adoption.

The City's Current Organics Program

In 2009, the City began providing organic waste collection services to large food establishment commercial businesses that generated a significant amount of organic waste. These businesses are collected on a separate route from the general waste routes. The material is transported to a material recovery facility in Sun Valley, CA and the organics are separated from the non-organic materials. The remaining organics are shipped to Victorville, CA or Lamont, CA, to a compost facility for further processing. There are approximately 134 businesses on this program (See Attachment 2). We offer this service primarily to restaurant businesses, but it is available to all businesses that generate a significant amount of organic waste. Under the new SB 1383 requirements, all organic waste generators with lower amounts of organics will be required by State law to recycle their organics. Staff anticipates an additional 370 businesses subscribing to organic collection services.

COMMUNITY OUTREACH

Commercial Sector

Prior to the pandemic, staff began planning for SB 1383 by coordinating with the City's franchise hauler (Athens Services) with in-person site visits to assess the commercial generator's waste material and provide educational outreach to businesses regarding existing and upcoming regulations, see Attachment 3 for brochure example. SB 1383 was still in the rule-making process. When the pandemic hit, the in-person outreach project was placed on hold. The project has since restarted in March 2021. With the restart of the site visits, staff is gathering additional information relevant to the final State regulatory requirements.

Residential Sector

In 2020, the City expanded the yard waste bin services to include food waste. Residents can now place food waste into their green waste bins. The City also advertised this information on the collection trucks and in the July 2020 Backbone newsletter. City staff has also begun labeling the green waste containers with this information and have completed labeling the containers for the single-family properties serviced by alley collection.

Program Implementation Roll-Out

The City plans to do another round of outreach to continue to inform the residents and businesses of the new program and new regulations. This second round of outreach will be full scaled and will include multi-family properties in the final phase because it will be the most challenging given the logistics.

The SB 1383 rollout plan for the residential community will include a food scrap pail to discard food scraps from the kitchen. These pails will be available to the community for pick up. The full scale plan will be implemented in multiple phases, starting in late spring of 2022 to align with the City's new franchise agreement. Starting with single-family residential properties north of Santa Monica Boulevard, followed by single-family properties south of Santa Monica Boulevard, then by multi-family residential properties. This timeframe will allow for sufficient time for outreach and a successful roll-out. The plan is currently in development.

The commercial businesses that will need this service will begin receiving their delivery of the separate organics cart at the first of the year when the organic cart rate becomes effective in January 2022.

Communication on SB 1383 will be going to the residential and business community to educate them on requirements to comply with the State and local regulations. Staff and City's franchise waste hauler will continue to make every effort to assist residents and businesses in becoming SB 1383 compliant before January 1, 2024, when the State requires the City to begin sticker enforcement with assessments of monetary penalties for non-compliance.

Continued Outreach

Staff understands that community engagement plays a major role in the success of the organics recycling program. Staff has developed a community outreach plan that consist of various methods of communication including the following:

- Dedicated website for SB 1383
- Social media posts
- Direct mailers
- Newspaper ads
- Backbone article
- Utility bill messages
- Community meetings
- Community group presentations

Staff has begun community outreach and will continue engaging the community through the following year.

FISCAL IMPACT

Late last year, during the solid waste enterprise rate study, staff anticipated the need for a regular commercial organic cart rate in anticipation of the regulations becoming finalized. Staff addressed some of the elements of AB 1826 (Mandatory Commercial Organics Recycling) and SB 1383 in the new solid waste franchise agreement. However, due to the vast requirements of SB 1383 and impacts across departments and direct service providers, staff will need to evaluate the implementation of this new program with existing resources and how the routing may adjust through the onboarding of the new organics program. Staff will follow up with updates if costs are affected.