

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JOEY HEJNOWICZ, ZERO WASTE COORDINATOR,
TRANSPORTATION & PUBLIC WORKS
SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA ROSA AMENDING TITLE 9 OF THE SANTA
ROSA CITY CODE BY AMENDING CHAPTER 9-12 REFUSE AND
SANITATION AND CHAPTER 9-14 CONSTRUCTION AND
DEMOLITION DEBRIS BY ADDING PROVISIONS AND
REQUIREMENTS OF SENATE BILL 1383 SHORT-LIVED
CLIMATE POLLUTANTS: ORGANIC WASTE REDUCTIONS

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Transportation and Public Works Department that the Council introduce an ordinance to amend Title 9 of the Santa Rosa City Code by amending Chapter 9-12 Refuse and Sanitation and Chapter 9-14 Construction and Demolition Debris by adding provisions and requirements of Senate Bill 1383, Short-Lived Climate Pollutants: Organic Waste Reductions.

EXECUTIVE SUMMARY

In September 2016, Governor Edmund Brown Jr. set methane emissions reduction targets for California (SB 1383 Lara, Chapter 395, Statutes of 2016) in a statewide effort to reduce emissions of short-lived climate pollutants. The statewide targets enact policies designed to reduce organic waste disposal 75% and rescue currently disposed edible food by at least 20% by 2025. SB 1383 is the most significant and prescriptive waste reduction mandate to be adopted in California in the last 30 years.

The City of Santa Rosa must adopt an enforceable ordinance or similar mechanism requiring compliance with the various SB 1383 regulation requirements no later than January 1, 2022. The proposed Santa Rosa City Code amendments codify SB 1383 regulations provisions and requirements.

BACKGROUND

California is now experiencing the effects of a climate crisis: hotter summers with record-breaking temperatures, even more devastating fire seasons, more extreme

droughts, and rising sea levels that erode our coastlines. Scientists tell us that greenhouse gasses released by human activities, like landfilling food and yard waste, cause climate change. To respond to this climate crisis, California is implementing statewide organic waste recycling and surplus food recovery.

Organic waste in landfills emits 20 percent of the state's methane, a climate super pollutant 84 times more potent than carbon dioxide. Organics like food scraps, yard trimmings, paper, cardboard, etc. make up nearly half of what Californian's dump in landfills. Reducing short-lived climate pollutants like organic waste will have the fastest impact on the climate crisis.

In September 2016, Governor Brown set methane emissions reduction targets for California (SB 1383 Lara, Chapter 395, Statutes of 2016) in a statewide effort to reduce emissions of short-lived climate pollutants. The statewide targets enact policies designed to:

- Reduce organic waste disposal 75% by 2025.
- Rescue for people to eat at least 20% of currently disposed surplus food by 2025.

The City of Santa Rosa must adopt an enforceable ordinance or similar mechanism requiring compliance with the various SB 1383 regulation requirements no later than January 1, 2022.

PRIOR CITY COUNCIL REVIEW

None.

ANALYSIS

SB 1383 regulations become effective on January 1, 2022. SB 1383 authorizes local jurisdictions to charge fees to recover the costs incurred in complying with the regulations. SB 1383 sets forth statewide requirements to reduce organic material disposal by 75% and increase edible food recovery by 20% by 2025. SB 1383 outlines specific implementation tasks to achieve these goals required of local governments. The City of Santa Rosa must do the following in order to comply with SB 1383:

- Provide organic material collection to all residents and businesses.
- 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/county departments.
- Estimate organic material processing and food recovery capacity available to the City and create a plan to fund expansion if capacity is not sufficient.
- Procure recyclable and recovered organic waste products such as compost, mulch, and/or renewable natural gas.
- Monitor compliance and conduct enforcement of covered entities.

- Maintain accurate and timely records of SB 1383 compliance.

Edible Food Recovery Requirements for Jurisdictions

Santa Rosa will be required to develop a list of food recovery services and organizations within our jurisdiction and shall implement an edible food recovery program to:

- Educate commercial edible food generators.
- Increase access to food recovery organizations and services.
- Monitor edible food generator compliance.
- Increase edible food recovery capacity if adequate capacity does not currently exist.

Jurisdictions may fund actions for food recovery through franchise fees, local assessments, or other local funding mechanisms.

Edible Food Recovery Requirements for Food Generators

Tier One Commercial Edible Food Generators must donate their excess edible food and comply with the associated recordkeeping requirements by January 1, 2022. Tier Two Commercial Edible Food Generators must do the same by January 1, 2024. Tier One and Tier Two Generators must maintain a contract with each food recovery organization that provides a pick-up service or accepts donated food that the generator self-hauls.

| Tier One Commercial Generators | Tier Two Commercial Generators |
|---|---|
| Supermarkets with gross annual sales of \$2 million dollars or more | Restaurants with 250 or more seats, or a total facility size 5,000 sq. ft. or greater |
| Grocery stores (10,000+ sq. ft.) | Hotels with on-site food facility, and 200 or more rooms |
| Food service providers | Health facility with on-site food facility, and 100 or more beds |
| Food distributors | Large venues that annually seat or serve an average of more than 2,000 individuals per day of operation |
| Wholesale food vendors | Large events that serve an average of more than 2,000 individuals per day of operation |

Edible Food Recovery Requirements for Food Recovery Organizations

Food recovery organizations will be required to maintain records of the contact information of each organization they service. Additionally, they must keep records of the kinds and amounts of food collected, delivered, or rejected.

Procurement of Recovered Organic Waste Products

As of January 1, 2022, California jurisdictions shall annually procure a quantity of recovered organic waste products based on population. Organic waste products that Santa Rosa may procure include compost, renewable natural gas, electricity from biomass conversion and/or mulch.

CalRecycle will be calculating each jurisdiction's annual recovered organic waste product procurement targets. Based on initial staff calculations, Santa Rosa would need to procure approximately 8,201 tons of compost to meet the annual procurement target requirements. 8,201 tons of compost equates to 22.5 tons of compost procured per day (or 56 yards of compost daily). Based on current rates at local compost facilities, the annual cost for organic waste procurement is projected at approximately \$400,000.

Jurisdictions in Sonoma County, along with Zero Waste Sonoma have petitioned CalRecycle to reduce our procurement targets to avoid market competition with our robust agricultural community. Because our local agriculture community utilizes most, if not all of the compost generated by our local facilities, there is simply not enough compost generated to go around for all parties. Ultimately, this procurement target reduction request was denied by CalRecycle.

Sonoma County jurisdictions in coordination with Zero Waste Sonoma are exploring a compost rebate program. Zero Waste Sonoma would work to secure direct service provider agreements with agriculture businesses who already procure compost. Through these direct service provider agreements, agriculture farmers/businesses would procure compost on behalf of Zero Waste Sonoma and receive an undetermined rebate on the cost of compost that would be paid through the Zero Waste Sonoma agency fee. Agricultural business would get compost at a reduced cost and Sonoma County jurisdictions would receive credit for the compost procured. The details of this compost rebate program are still being reviewed by CalRecycle. It remains to be seen how much of Santa Rosa's procurement targets would be reduced through this proposed rebate program.

Construction and Demolition Debris Update

SB 1383 requires full adoption and adherence to California Green Building Standards Code (CALGreen), California Code of Regulations, Title 24, Part 11 as amended July 1, 2019 and effective January 1, 2020.

CALGreen requires construction and demolition haulers to recycle at least 65% of their debris. Santa Rosa's current Construction and Demolition Debris City Code and Franchise Agreement only requires a 50% recycling rate. The proposed adjustments to the Construction and Demolition Debris City Code (Chapter 9-14) will update and align with this CALGreen requirement.

Enforcement Requirements

Each jurisdiction is required to adopt an ordinance imposing requirements for all generators to comply with organic material collection and edible food recovery. Additionally, all jurisdictions must adopt an inspection and enforcement plan for all regulated entities. Regulated entities include:

- Commercial business generators.
- Multi-family and single-family residential generators.
- Annual or regularly scheduled events.
- Large venues.

The regulations specify that a sufficient number of businesses should be inspected each year. City of Santa Rosa and Zero Waste Sonoma have interpreted this to equate to ten percent (10%) of regulated entities annually. The records of all inspections and enforcement actions must be maintained for a minimum of five years. The enforcement process shall begin with a Notice of Violation (NOV). Prior to January 1, 2024, anyone in violation of the requirements shall be given educational materials. After January 1, 2024, the enforcement process becomes effective and will involve progressive enforcement action, including monetary penalties if necessary.

Enforcement over Jurisdictions

The regulations also provide that if CalRecycle finds that a jurisdiction is not fulfilling one of more of its responsibilities to implement and enforce SB 1383, CalRecycle may engage in enforcement actions of its own over the jurisdiction in violation. Those actions may include:

- Conducting more frequent inspections.
- Taking over direct enforcement.
- Establishing a schedule for compliance and a probationary period, requiring a work plan, requiring the jurisdiction to demonstrate it has sufficient staffing.
- Seeking administrative penalties.

Penalties

Santa Rosa shall impose penalties for violations of the requirements of SB 1383. The penalty levels shall be as follows:

- For a first violation, the amount of the base penalty shall be \$50-\$100 per violation.
- For a second violation, the amount of the base penalty shall be \$100-\$200 per violation.
- For a third or subsequent violation, the amount of the base penalty shall be \$250-\$500 per violation.

CalRecycle may impose administrative penalties against non-compliant jurisdictions in accordance with the requirements of SB 1383. Penalties shall be assessed as follows:

- “Minor” violation – minimal deviation from requirements – \$500 to \$4,000 per violation per day.
- “Moderate” violation – moderate deviation from requirements – \$4,000 to \$7,500 per violation per day
- “Major” violation – substantial deviation from requirements – \$7,500 to \$10,000 per violation per day.

Once the penalty range has been determined, various factors would be used to determine the amount of the penalty for each violation within that range including:

- The nature, circumstances, and severity of the violation(s).
- Violator’s ability to pay.
- The willfulness of the violator’s misconduct.
- Whether the violator took measures to avoid or mitigate the violations.
- Evidence of any economic benefit resulting from the violation(s).
- The deterrent effect of the penalty on the violator
- Whether the violation(s) were due to conditions outside the control of the violator.

Impacts for Santa Rosa

Compliance with SB 1383 will result in increased costs to residents, businesses, Recology, Zero Waste Sonoma (ZWS) and the City. Expected costs to implement SB 1383 are for education, outreach, general administration, organic waste product and recycled content paper procurement, inspections, enforcement, and establishing and/or expanding the edible food program for the community. The City of Santa Rosa, Zero Waste Sonoma and Recology will all have a part in SB 1383 implementation.

Zero Waste Sonoma will assist with education & outreach, organic waste procurement, reporting & recordkeeping, organic waste processing and diversion planning and initial administration of complaints, violations, and waivers.

Recology will assist with the capital requirements of SB 1383 (bins, cans, decals, etc.), required route reviews and contamination monitoring, education and outreach, and recordkeeping & reporting.

The City of Santa Rosa, as the jurisdiction, is ultimately responsible to ensure all SB 1383 requirements and conditions are being met. Among coordination with its partners to ensure SB 1383 requirements are being met, the City is responsible for adopting enforceable ordinances or similar mechanisms to ensure SB 1383 compliance. Furthermore, the City of Santa Rosa will assist with outreach & education, recordkeeping & reporting and ultimate enforcement measures on non-complaint entities which may result in penalties and/or fines.

Complete costs to implement SB 1383 will not be fully known until at least a year into implementation (where costs are actualized), but cost projections for SB 1383 implementation reveal approximately a five percent (5%) increase to City solid waste collection rates.

City staff will be bringing forward agreements with both Zero Waste Sonoma (MOU) and Recology (4th Amendment to Collection Services Agreement) to effectuate SB 1383 implementation requirements and responsibilities of each City partner.

FISCAL IMPACT

There is no expenditure/cost impact to the City's General Fund from the City Code amendments necessary to codify SB 1383.

ENVIRONMENTAL IMPACT

This action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Section 15308 of the CEQA Guidelines as action taken by a regulatory agency as authorized by state or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment, in that SB 1383 sets requirements to reduce waste and increase recycling and composting.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

March 10, 2021 – Climate Action Subcommittee – received report on SB 1383 requirements and impacts.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Chapter 9-12 Amendment Redline Version
- Attachment 2 – Chapter 9-14 Amendment Redline Version
- Ordinance (Amending Chapters 9-12 and 9-14)

CONTACT

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