



STAFF REPORT – CITY COUNCIL MEETING

December 21, 2022

TO: Honorable Mayor and City Council Members

FROM: Emily Sinkhorn, Director of Environmental Services

PREPARER: Emily Benvie, Dep. Director of Environmental Services-Com. Svcs.

DATE: November 28, 2022

TITLE: **Adopt Ordinance No. 1560, An Ordinance of the City Council of the City of Arcata Amending Solid Waste Management Provisions of the Arcata Municipal Code to Incorporate Mandatory Organic Waste Disposal Reduction Requirements, Waive Reading of the Text and Consent to Read by Title Only.**

RECOMMENDATION:

It is recommended that the Council adopt Ordinance No. 1560, An Ordinance of the City Council of the City of Arcata Amending Solid Waste Management Provisions of the Arcata Municipal Code to Incorporate Mandatory Organic Waste Disposal Reduction Requirements; waive reading of the text and consent to read by title only.

INTRODUCTION:

Senate Bill 1383, which addresses short-lived climate pollutants, was signed by Governor Jerry Brown on September 19, 2016. The final implementing regulations were adopted in November 2020. SB 1383 requires a 75 percent (75%) reduction of organic waste disposal by 2025, and rescue of at least 20 percent (20%) of currently disposed edible food. City staff have been actively working the past two years with local jurisdictions to prepare our region to come into compliance with the new provisions of SB 1383.

SB1383 requires jurisdictions adopt an ordinance or other similarly enforceable mechanism to implement provisions of the mandate.

The Council introduced Ordinance No. 1560 on November 16, 2022.

BACKGROUND:

The passage of SB 1383 has precipitated the most comprehensive changes in waste management in California since the 1980s. “SB 1383” includes requirements within six main categories:

1. Provide organics collection services to all residents and businesses
2. Establish an edible food recovery program
3. Conduct education and outreach to the community

4. Procure recyclable and recovered organic products
5. Secure access to recycling and edible food recovery capacity
6. Monitor compliance and conduct enforcement

To comply with these various categories, Arcata will be required to review, adopt and modify ordinances as necessary, promote or develop edible food diversion and recovery programs, assess existing food rescue capacity, assess existing capacity for organics recycling, procure target amount of recyclable and recovered organic products, review and amend the franchise agreement (in order to provide curbside food waste collection while dealing with the increasing costs of service to enable development of organic waste processing services, route inspections, regulatory enforcement, and other related activities), inspect food waste generator businesses, provide public education and outreach, and maintain a complete “implementation record.”

Since December 2020, City staff has been working regionally as a member of the Solid Waste Local Task Force (LTF), as part of a SB1383 Ad-hoc Committee of the LTF, and as a member agency in collaboration with HWMA. The City has also actively participated in and contributed to Edgar & Associates contract held by HWMA to develop a SB1383 Compliance Road Map and complete an Edible Food Recovery Capacity Assessment.

After the SB1383 regulation was finalized, Council received an overview presentation of SB1383 provisions on May 5, 2021. Following the passage of Senate Bill 619 which provided jurisdictions the opportunity to apply for a delay in enforcement of SB 1383 provisions until January 1, 2023, City Council approved on February 16, 2022 the submittal of a Notification of Intent to Comply (NOITC) with SB1383 to CalRecycle. The Council also received a subsequent update on progress towards compliance with SB 1383 from staff on May 4, 2022. The Council introduced Ordinance 1560 at its November 16, 2022 meeting.

There are several concurrent components of developing and implementing SB1383 programs. Introduction of Ordinance 1560 is the first ‘decision-point’ for the Arcata City Council. To comply with SB1383 requirements and provisions of the NOITC submitted to CalRecycle, an ordinance or similarly enforceable mechanism must be adopted by January 1, 2023.

It is important to note that currently, the City of Arcata and the Humboldt County region do not yet have the infrastructure in place for universal collection or processing of organic waste. The City is continuing to work at the regional level as a member of HWMA and a member of the LTF to develop organics processing infrastructure as quickly as possible.

DISCUSSION:

The City of Arcata has long supported mandatory solid waste collection programs. Mandatory curbside collection was initially implemented in 2009. Ordinance 1560 modifies the City’s existing mandatory curbside collection provisions of the Municipal Code (Title V, Chapter 3, Sections 5400 – 5475) to comply with the requirements of SB1383.

Key elements of Ordinance 1560 that update the current mandatory curbside collection program include:

- The addition of organic waste (e.g. food waste, green waste, compostables) as a component of mandatory curbside collection and the creation of a three-bin system for curbside collection (e.g. solid waste destined for the landfill, recyclables, and organic waste).
- Waivers (or “opt outs”) will be limited to situations in which:

- A property is unimproved or uninhabitable;
- A Single-Family residential unit or other structure on the property is vacant or temporarily unoccupied for a period in excess of four months;
- Unique parcel-specific conditions exist which prevent that parcel from being serviced by the Authorized Collection Contractor
- A Commercial Business or property owner’s premises lack adequate space for the required Recycling Containers and/or Compost Containers.
- Defining Community Compost Operators and limiting community composting operation size based on the state’s provisions. The City will continue to work with potential Community Compost Operators, Recology and HWMA to determine how community composting fits within larger context of regional organics processing.
- Businesses and multifamily residential dwellings are required to provide for a compost container and recyclable materials container where the business provides disposal containers. Containers are required to have a body or lid that conforms with color requirements, though businesses are not required to replace existing functional container that are not compliant with color requirements until January 1, 2036.
- Businesses and multifamily dwellings are required to periodically inspect containers for contamination and inform employees or tenants if containers are contaminated and of the requirements to keep contaminants out of those containers. Businesses and multifamily dwellings are also required to annually provide information to employees, contractors, tenants, building residents, and customers about organic waste recovery requirements and about proper source separation.
- Commercial Edible Food General requirements
 - Tier 1 Generators (e.g. supermarkets, food distributors, wholesalers) must comply with Commercial Edible Food Generator requirements beginning with the effective date of the ordinance
 - Tier 2 Generators (e.g. restaurants, hotels, local education agencies, etc) must comply with Commercial Edible Food Generator requirements beginning in January 1, 2024
- Food Recovery Organizations and Services must keep records required by SB1383 as identified in the ordinance

Since 2019, the City Council has recognized the difficulty in objectively verifying the current mandatory curbside collection waiver for customers who generate “zero waste”. Furthermore, when commercial or residential customers do not subscribe to curbside collection, they are not contributing to franchise fee revenue that supports the City’s overall solid waste programs, services, and compliance with state mandates. The City has recognized that the greatest good for the greatest number of Arcata residents can be found in universal mandatory collection to spread the cost of solid waste services across a higher number of rate payers.

City staff recognize that many Arcata residents and businesses may already be composting their food waste through backyard composting. Nothing in the proposed ordinance prohibits residents from preventing or reducing waste generation or managing Organic Waste onsite.

In addition to working with HWMA to establish organics processing, the City is continuing to work with Recology, the City's current Authorized Collection Contractor, to develop curbside collection of organic waste. As programs and capital improvements are identified, the City and Recology will amend or replace the existing franchise agreement and develop a rate schedule to fund the necessary programs.

Ordinance 1560 allows for phase-in of mandatory programs. Until the necessary hauling and processing infrastructure is developed, mandatory collection of organic waste will not be required by residents or businesses. The City's goal is to bring organics collection to Arcata residents and businesses in a smooth and cost-effective way that still complies with the state's requirements. In the future, there will be several additional key decision points for the Council to implement and comply with SB1383 such as negotiation of a franchise agreement update with the City's Authorized Collection Contractor, Recology, and updates to curbside collection rates to account for the additional collection services required by SB 1383.

The City does have an existing optional green waste collection program in which approximately 739 customers are subscribed. City staff are exploring organics collection phase-in/pilot opportunities which could include phase-in of organics collection with existing green waste customers or with Tier 1 and 2 generators within the central business district. Options for phase-in of organics collection will be considered at a later date.

As an ordinance must be adopted prior to January 1, 2023 to meet current SB 1383 regulations, it is recommended this ordinance updating Title V Chapter 3 – Solid Waste Management be adopted.

The City and other local jurisdictions in Humboldt County are actively working with CalRecycle to make a feasible plan to come into compliance with all other components of SB 1383, such as developing the infrastructure locally to ultimately compost all organic waste within Humboldt County.

BUDGET/FISCAL IMPACT:

This staff report includes an overview of Ordinance 1560. Ordinance adoption will not have an immediate budget/fiscal impact to the City or rate paying customers. Future actions needed to comply with SB 1383 will have fiscal impacts, which will be evaluated when future actions are proposed. Following ordinance adoption, the City will negotiate a franchise agreement update with Recology to carry out curbside collection of solid waste, recycling and organics and will conduct a rate analysis to determine fiscal impact to customers. City staff anticipate these next steps to commence in early 2023.

CEQA:

In 2019 CalRecycle adopted an EIR analyzing potential environmental impacts from the expected compliance responses of regulated entities, such as the City of Arcata, to the SB 1383 regulations. This ordinance content has been developed to enable the City to come into compliance with the state's SB 1383 regulations and potential environmental impacts from ordinance adoption are within the scope of the ordinance.

ATTACHMENTS:

Ord 1560, Organic Waste Diversion (PDF)