



CITY ATTORNEY'S OFFICE

**OAKLAND CITY COUNCIL
ORDINANCE NO. ___ C.M.S.**

ORDINANCE AMENDING OAKLAND PLANNING CODE CHAPTER 17.118 (RECYCLING SPACE ALLOCATION REQUIREMENTS), TO COMPLY WITH SENATE BILL 1383 (THE SHORT-LIVED CLIMATE POLLUTANT REDUCTION ACT OF 2016) AND ITS REGULATIONS AT CALIFORNIA CODE OF REGULATIONS (CCR) AT TITLE 14 SECTION 18989.1(A)(2), WHICH REQUIRE COMPLIANCE WITH THE REQUIREMENTS OF CALGREEN SECTIONS 4.410.2 - RECYCLING BY RESIDENTIAL OCCUPANTS AND SECTION 5.410.1- RECYCLING BY NON-RESIDENTIAL OCCUPANTS TO REQUIRE SPACE FOR ORGANICS CONTAINERS IN NEW OR RENOVATED MULTI-FAMILY AND COMMERCIAL BUILDINGS AS AN ADDITION TO THE CURRENT REQUIREMENT FOR SPACE FOR RECYCLING CONTAINERS; AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

WHEREAS, the Senate Bill (SB) 1383, the Short-lived Climate Pollution Reduction Act of 2016 (SB 1383), as implemented by the regulations of the California Department of Resources, Recycling and Recovery (CalRecycle) which were adopted in 2020 (14 California Code of Regulations (CCR), Division 7, Chapter 12, and amended portions of regulations of 14 CCR and 27 CCR and 24 CCR Part 11) (SB 1383 Regulations), require Oakland to adopt an ordinance or enforceable mechanism for Sections 4.410.2 and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020 (CALGreen SB 1383 Baseline Requirements); and

WHEREAS, the CALGreen SB 1383 Baseline Requirements require that new or renovated multi-family and commercial construction or additions provide space for all occupants to recycle non-hazardous materials, including (at a minimum) paper, corrugated cardboard, glass, plastics, metals, and organic waste.

WHEREAS, the Oakland Planning Code requires the provision of space for recycling in new and renovated buildings; and

WHEREAS, the proposed ordinance is being adopted pursuant to CalRecycle's SB 1383 Regulations which were the subject of a program Environmental Impact Report (EIR) prepared by CalRecycle under the California Environmental Quality Act (CEQA). The activities to be carried out under this ordinance is entirely within the scope of the SB 1383 Regulations and that EIR. No

mitigation measures identified in the EIR apply to the City of Oakland’s enactment of this ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR have occurred as described in CEQA at the Public Resources Code Section 21166 and its regulations (CEQA Guidelines) at Title 14 CCR Sections 15162 and 15163 (CEQA Guidelines). The EIR, therefore, adequately analyzes any potential environmental effects of the ordinances, and no additional environmental review is required. On a separate and independent basis, the City Council finds, pursuant to CEQA Guidelines, that this ordinance is categorically exempt in accordance with Section 15307 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of natural resources; and in accordance with Section 15308 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Amend Oakland Planning Code. Chapter 17.118 of the Oakland Planning Code, “Recycling Space Allocation Requirements” is hereby amended (additions are indicated by underscoring and deletions are indicated by strike-through).

17.118.010 - Title, purpose, and applicability.

The provisions of this Chapter shall be known as the Recycling and Organics Space Allocation Requirements. The purpose of these provisions is to prescribe standards by which to ensure consistency with the requirements of Chapter 18 of Division 30 of the Public Resources Code, commencing with Section 42900, known as the California Solid Waste Reuse and Recycling Access Act of 1991, and to ensure the provision of adequate, accessible, and convenient locations for the collection and storage of recyclable materials within containers and enclosures which are compatible with surrounding land uses and structures. These standards shall apply to certain affected development projects as specified in Section 17.118.020. The purpose of this Chapter is also to ensure consistency with the requirements of CALGreen Sections 4.410.2 and 5.410.1 and 14 CCR Section 18989.1(a)(1), (regulations under Senate Bill (SB) 1383, the Short-lived Climate Pollutant Reduction Act of 2016).

(Ord. No. 13357, § 3(Exh. A), 2-16-2016; Ord. 11807 § 1 (part), 1995: prior planning code § 7600), CALGreen 2019.

17.118.020 - Affected projects.

The following development projects shall provide adequate, readily accessible, and convenient areas for collecting and loading recyclable and organic materials:

- A. Any new residential development of five units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or new commercial or industrial development including marinas, for which a building permit is required, and said permit application is submitted on or after the effective date of these regulations;

- B. Any new public facility where solid waste is collected and loaded and any improvements made to areas of an existing public facility used for collecting and loading solid waste;
- C. Any existing residential development project of five units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or existing commercial or industrial development including marinas, for which an application for a building permit is submitted on or after September 1, 1994 for an alteration(s) which adds thirty percent (30%) or more to the existing gross floor area of the development project;
- D. Any existing residential development project of five (5) units or more where solid waste is collected and loaded in a location serving five or more living units, or existing commercial or industrial development or marina, for which multiple applications for building permits are submitted within a twelve (12) month period on or after September 1, 1994, which collectively add thirty percent (30%) or more to the existing gross floor area of the development project;
- E. Any existing residential development project of five (5) units or more where solid waste is collected and loaded in a location serving five (5) or more living units, or existing commercial or industrial development or marina, occupied by multiple tenants, one of which submits within a twelve (12) month period an application or a series of applications for building permits for alterations which singly or collectively add thirty percent (30%) or more to the existing floor area of that portion of the project which said tenant leases. In such cases, adequate areas for the collection and loading of recyclable materials adequate in number and capacity to serve that portion of the development project said tenant leases shall be provided.
- F. New Commercial construction or additions resulting in more than 30% of the floor area. (Ord. No. 13064, § 2(Exh. A), 3-15-2011; Ord. 12872 § 4 (part), 2008; Ord. 11807 § 1 (part), 1995: prior planning code § 7601)

17.118.030 - Recycling and Organics space allocation requirements.

The design, location and maintenance of recycling and organics collection and storage areas must substantially comply with the provisions of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling and Organics Collection and Storage Areas," as they may be amended. In addition, space devoted to the collection and storage of recyclable materials and organic materials shall be adequate in capacity, number and distribution to serve the affected development. Where "organics" is mentioned, "compost" shall mean the equivalent.

- A. Space allocated for recycling collection and storage areas within affected residential projects shall be provided in the amount of two cubic feet of storage and collection space per residential unit, with a minimum requirement that not less than ten cubic feet be provided.
- B. Space allocated for organic waste material collection and storage areas within affected residential projects shall be provided in the amount of one cubic foot of storage and collection space per residential unit, with a minimum requirement that not less than ten cubic feet be provided.
- C. Space allocated for recycling collection and storage areas within affected commercial, industrial and public facility projects shall be provided in the amount of two cubic feet of storage and collection space per each one thousand (1,000) square feet, or portion thereof, of the total gross building square footage, with a minimum requirement that not less than ten cubic feet be provided.
- D. Space allocated for organics collection and storage areas within affected commercial, industrial and public facility projects shall be provided in the amount of two cubic feet of storage and collection space per each one thousand (1,000) square feet, or portion thereof, of the total gross building square footage, with a minimum requirement that not less than ten cubic feet be provided.
- E. Comply with all relevant sections of 4.410.2 and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended July 1, 2019 and effective January 1, 2020 (CALGreen SB 1383 Baseline Requirements).

17.118.040 - Review procedures.

Plans indicating the proposed design, size and location of both new and existing recycling, organics and trash enclosures shall be submitted to the Director of City Planning to be reviewed concurrently during the appropriate review procedure required for the proposed development. For those development projects not requiring planning applications but for which building permits are required, plans indicating the design, size and location of recycling and trash enclosures shall be submitted to the Building Official, to be included with the building permit plan check submittal for the proposed development project.

(Ord. _____, Ord. 11807 § 1 (part), 1995: prior planning code § 7603)

SECTION 2. California Environmental Quality Act (CEQA). The City Council finds that the ordinance reflects SB 1383 requirements and is adopted pursuant to CalRecycle’s SB 1383 Regulations. The SB 1383 Regulations were the subject of a program EIR prepared by CalRecycle. The activities to be carried out under this ordinance is entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR apply to the City of Oakland’s enactment of this ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR have occurred as described in CEQA at Public Resources Code Section 21166 and the CEQA Guidelines at 14 CCR Sections 15162 and 15163. The EIR, therefore, adequately analyzes any potential environmental effects of the ordinances, and no additional environmental review is required.

On a separate and independent basis, the City Council finds, pursuant the CEQA Guidelines, that this ordinance is categorically exempt in accordance with Section 15307 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of natural resources; and in accordance with Section 15308 as an action taken by a regulatory agency as authorized by California law to assure maintenance or protection of the environment. The Council therefore directs that the City Administrator or their designee may file a Notice of Exemption with the Alameda County Clerk in accordance with CEQA.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND PLANNING CODE CHAPTER 17.118 (RECYCLING SPACE ALLOCATION REQUIREMENTS), TO COMPLY WITH SENATE BILL (SB) 1383 (THE SHORT-LIVED CLIMATE POLLUTANT REDUCTION ACT OF 2016) AND ITS REGULATIONS AT CALIFORNIA CODE OF REGULATIONS AT TITLE 14 SECTION 18989.1(A)(2), WHICH REQUIRE COMPLIANCE WITH THE REQUIREMENTS OF CALGREEN SECTIONS 4.410.2 - RECYCLING BY RESIDENTIAL OCCUPANTS AND SECTION 5.410.1-RECYCLING BY NON-RESIDENTIAL OCCUPANTS TO REQUIRE SPACE FOR ORGANICS CONTAINERS IN NEW OR RENOVATED MULTI-FAMILY AND COMMERCIAL BUILDINGS AS AN ADDITION TO THE CURRENT REQUIREMENT FOR SPACE FOR RECYCLING CONTAINERS; AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

The amended Oakland Planning Code 17.118 will add the requirement for sufficient space in solid waste enclosures for organics also known as compost collection containers. This is in addition to the current requirement for adequate space in solid waste enclosures to store trash and recycling generated by the property for weekly collection. This will impact all new developments and renovations that are currently required to comply with Oakland Planning Code Chapter 17.118.