



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: G. Harold Duffey
Director, Oakland Public
Works

SUBJECT: Ordinances For Compliance With
Senate Bill 1383 To Reduce
Greenhouse Gas Emissions

DATE: September 18, 2021

City Administrator Approval

Date: Nov 4, 2021

RECOMMENDATION

Staff Recommends That The City Council:

1. **Adopt An Ordinance Adopting Alameda County Waste Management Authority Organics Reduction And Recycling Ordinance 2021-02 (WMA Ordinance 2021-02); Amending Oakland Municipal Code Chapter 8.28 To Make Conforming Amendments For Consistency With WMA Ordinance 2021-02 And To Comply With Senate Bill 1383; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings; And**
2. **Adopt An Ordinance Amending Oakland Municipal Code Chapter 15.34 (Construction And Demolition Debris Collection, Transportation, Waste Reduction And Recycling Requirements), To Comply With Senate Bill 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 The California Green Building Standards Code (CALGreen) Sections 4.408.1 And 5.408.1 To Divert 65% Of Construction And Demolition Debris; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings; And**
3. **Adopt An 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 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; And**
4. **Adopt An Ordinance Amending Oakland Municipal Code By Adding Chapter 18.01 (Water Efficient Landscaping Ordinance), To Comply With The State Requirement To Promote Water Conservation And Efficient Use Of Water In Landscaping; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.**

EXECUTIVE SUMMARY

In 2016, Governor Jerry Brown signed into law Senate Bill (SB) 1383, commonly referred to as the “Short-Lived Climate Pollutants Act of 2016.” SB 1383 establishes methane reductions targets to help the State of California meet its climate goals. The goal of SB 1383 is to reduce methane emissions associated with landfills, dairies and livestock, and organic waste.

SB 1383 regulations were developed by the California Department of Resources, Recycling and Recovery (CalRecycle) to achieve the goals of SB 1383. CalRecycle created Chapter 12 of Title 14, Division 7 of the California Code of Regulations (CCR), and amended portions of regulations of Title 14 CCR and Title 27 CCR. Final rulemaking was issued by CalRecycle in October 2020 and includes mandates for waste reduction and diversion, edible food recovery, recycled paper procurement, compost procurement, program enforcement, recordkeeping, and other requirements (SB 1383 Regulations). These new SB 1383 regulations were finalized by CalRecycle in November 2020 and take effect in January 2022.

By January 1, 2022, jurisdictions are required to adopt ordinances or other enforceable mechanisms to comply with many of the SB 1383 requirements.

To comply with the requirements of SB 1383, Oakland Public Works recommends that the City Council adopt the following four ordinances, adopting the County of Alameda Waste Management Authority’s (WMA) Organics Reduction and Recycling Ordinance 2021-02 and amending the Oakland Municipal Code (OMC) and the Oakland Planning Code (OPC).

1. An ordinance is needed to adopt the Alameda County Waste Management Authority’s Organics Reduction and Recycling Ordinance 2021-02 (WMA Ordinance 2021-02). The purpose of WMA Ordinance 2021-02 is to comply with SB 1383 and the SB 1383 regulations. Pursuant to section 13(b) of WMA Ordinance 2021-02, member agencies such as the City of Oakland are required to “opt-in” and declare that the WMA ordinance applies within the City’s jurisdiction. “Opting in” to the WMA Ordinance 2021-02 also represents the City’s decision to allow the WMA and the Alameda County Department of Environmental Health to act on its behalf regarding enforcement requirements of SB 1383 within the City of Oakland (City).

In addition, this ordinance amends OMC Chapter 8.28 (Solid Waste Collection and Disposal and Recycling) to codify WMA Ordinance 2021-02 and make the OMC consistent with and conform to the requirements of SB 1383, the SB 1383 Regulations, and to WMA Ordinance 2021-02. Amending OMC Chapter 8.28 will make the following changes to OMC Chapter 8.28:

- Add definitions consistent with SB 1383 and WMA Ordinance 2021-02;
- Add all other requirements of SB 1383 and WMA Ordinance 2021-02;
- Require single-family homes to have organics collection and recycling services and sort properly;
- Require businesses and multi-family buildings to have organics and recycling services and sort them properly;
- Require cities and haulers to comply with container color-coding and labeling requirements;

- Require haulers to assist with SB 1383 implementation in several ways, such as conducting or complying with route reviews and providing compliance data (i.e., contamination monitoring);
- Require commercial edible food generators to arrange for safe recovery for human consumption of edible food via sale or donation, donate edible food, maintain a contract with food recovery organizations, and keep monthly records; and
- Require food recovery organizations to keep records and report the amount of food collected; and
- Allow for an increased penalty level for specified commercial violations.

2. An ordinance to amend OMC Chapter 15.34 (Construction and Demolition Debris Collection, Transportation, Waste Reduction and Recycling Requirements) is needed to reflect SB 1383 and California Green Building Standards Code (CALGreen) Construction and Demolition (C&D) requirements that all residential and non-residential projects requiring building permits to submit Waste Reduction and Recycling Plans and Construction and Demolition Recycling Reports while preserving the City's progressive recovery requirements of 65% of all construction and demolition materials generated by covered applicants.

3. An ordinance to amend OPC 17.118 (Recycling Space Allocation Requirements) is needed to reflect SB 1383 requirements that new and renovated residential and non-residential buildings include adequate space to store containers for the collection of organics as well as recyclables and mixed materials, otherwise known as trash.

4. An ordinance is needed to change OMC Section 18, Sustainability, to add a new Section 18.01 (Water Efficient Landscaping Ordinance) and include the State's Model Water Efficient Landscaping Ordinance (WELO) requirements which became a requirement in 1991 with an update in 2009 and in 2015. Formal adoption of a WELO policy is required by SB 1383.

These proposed ordinances are needed to meet January 1, 2022, statutory deadlines under SB 1383 and avoid potential enforcement action against the City. The State has not delayed the statutory implementation requirements of SB 1383 despite the impacts on communities from COVID-19. CalRecycle has indicated that they consider adopting the required ordinances one of the most critical aspects of early compliance by a jurisdiction.

Under the new regulations, CalRecycle is authorized to enforce this provision on jurisdictions, including financial penalties ranging from \$500 to \$10,000 per violation per day. Adoption of the proposed ordinances will protect the City financially.

BACKGROUND / LEGISLATIVE HISTORY

Methane is a relatively short-lived climate pollutant that degrades in the atmosphere in approximately 12 years but is more than 80 times more potent a climate pollutant than carbon dioxide over a 25-year period. Sending organic waste to landfills leads to the anaerobic breakdown of material, which creates methane. Landfills are responsible for 21% of California's methane emissions. Diverting organic waste to compost facilities can reduce local air quality emissions and associated impacts.

SB 1383 requires jurisdictions to adopt mandatory, enforceable ordinances requiring multiple entities, from single-family households to large commercial edible food generators, to take actions to prevent the disposal of organics in the landfill as an important methane reduction strategy. Other laws were also adopted in the last decade that intended to decrease the volume of readily recyclable or compostable material in the landfill. Assembly Bill (AB) 341, which went into effect in 2012, required jurisdictions to implement a mandatory commercial recycling program for businesses and multi-family property owners. AB 1826 went into effect in 2016 and required jurisdictions to implement an obligatory commercial and multi-family organics recycling program with expanding enforcement requirements every 12-24 months.

In December 2020, CalRecycle published SB 1383 regulations (14 California Code of Regulations (CCR), Division 7, Chapter 12, and amended portions of regulations of 14 CCR and 27 CCR) requiring jurisdictions to adopt enforceable ordinances by January 1, 2022.

Several ordinances within the OMC and the OPC require amendment, and new ordinances must be adopted to comply with SB 1383 requirements fully.

Adopt WMA Organics Reduction and Recycling Ordinance and Amend OMC 8.28, Solid Waste Collection and Disposal and Recycling

In 2012, Alameda County WMA, a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts, adopted the Mandatory Recycling Ordinance (MRO 2012-01), which required businesses and multi-family properties to subscribe to and maintain recycling and organics collection services when the contents of the waste stream demonstrated the need. The City participated in drafting and implementing this revolutionary legislation. The City continues to work with WMA staff which recently augmented its technical support and enforcement capacity for businesses and multi-family properties on the City's behalf.

In support of MRO 2012-01, on June 22, 2015, the City adopted Ordinance No. 13314 C.M.S., amending OMC Chapter 8.28 to support the MRO requirements by ensuring trash, recycling, and compost collection services were readily available and by requiring property owners to make collection services available to their tenants by subscribing to and maintaining those services.

This collaborative effort ensured that the City was not only compliant with countywide mandatory recycling but simultaneously compliant with the statewide Mandatory Commercial Recycling Act, AB 341, of 2011, and the Mandatory Organics Recycling Act, AB 1826, of 2014.

In 2020, the City Council adopted Resolution No. 80286 C.M.S., the Equitable Climate Action Plan (ECAP), which identified several actions in Material Consumption and Waste (MCW) the City should take by 2030 to mitigate climate change. The first action in MCW is MCW-1, Eliminate Disposal of Compostable Organic Material to Landfill, and the second action is MCW-2, Strengthen Infrastructure and Partnerships for Edible Food Recovery.

An essential requirement of SB 1383 is the Jurisdiction Edible Food Recovery Program. SB 1383 has a statewide requirement for jurisdictions to recover edible food that is currently being wasted for distribution to food-insecure populations. The statewide goal is to capture not less

than 20% of edible food for human consumption, and the regulations make it clear that edible food generators such as grocery stores, supermarkets, restaurants, etc., are required to donate as much as possible of the food they will not sell.

On July 14, 2020, the Oakland City Council adopted Resolution No. 88214 C.M.S., authorizing a Memorandum of Understanding between the City and the Pacific Coast Collaborative to reduce wasted food by commercial food generators 50% by 2030 and to ensure participating commercial food generators are donating as much food as possible through this program. Recycling Program staff has been a partner with the Pacific Coast Collaborative and several large chain grocers and suppliers to develop methods of reducing waste in their operation and their supply chain. The Pacific Coast Collaborative is planning a food waste prevention pilot targeting online ordering. The pilot is set to begin in the Fall of 2021. Participating grocers will share results and best practices with all other participating grocers. Adopting the amendments to OMC Chapter 8.28 will combine SB 1383/WMA Ordinance 2021-02 requirements to donate edible food with a requirement for commercial food generators to reduce the amount of edible food that is being wasted as well.

On July 28, 2021, the WMA adopted Organics Reduction and Recycling Ordinance 2021-02 (WMA Ordinance 2021-02), which will rescind the MRO when WMA Ordinance 2021-02 takes effect on January 1, 2022 and continue WMA's leadership role ensuring a consistent countywide mandatory recycling and organic waste reduction ordinance complete with enforcement and assistance for the City's edible food recovery program currently in development. The adoption of a new City Ordinance authorizing the City to opt-in to the new WMA Ordinance 2021-02 will allow the City to continue to benefit from WMA enforcement and technical assistance activities.

The proposed amendments to OMC Chapter 8.28 regarding Solid Waste, Recycling, and Organics will make the OMC consistent with WMA Ordinance 2021-02 and SB 1383 requirements and the City's ECAP climate goals.

CALGreen C&D Recycling (OMC 15.34)

In 2000, the City Council adopted Ordinance No. 12253 C.M.S., codified in OMC 15.34, establishing the requirement to prevent landfilling of construction and demolition debris through waste reduction and recycling. The Ordinance initially required that construction projects recycle 50% of all construction debris. In 2006, the program requirements increased to 100% of asphalt and concrete and 65% of all remaining debris.

With the passage of SB 1383, additional material defined as organics such as cardboard products, clean wood, green waste or yard trimmings, and clean lumber trimmings must also be diverted from the landfill. Other refinements are also necessary to ensure that disposal facilities appropriately handle and divert as much C&D waste material as possible from landfills to reduce climate pollutants.

Amendments to OMC 15.34 will update the code to be consistent with new CALGreen updates, to be compliant with SB 1383 requirements, and will make recycling requirements applicable to all residential and non-residential building permits. Additionally, the proposed amendments will authorize the City to require third-party certification documenting recycling rates at facilities that

accept C&D waste. The certification process allows contractors operating in multiple jurisdictions to have one consistent set of standards applied to their recycling planning in the region, assists with cross-jurisdictional collaboration, and is an adopted practice in San Francisco. The amendment will also ensure full compliance with SB 1383 diversion and enforcement requirements, allowing increased penalties via OMC 1.12, which staff hopes will deter non-compliance.

CALGreen Recycling Space Allocation Requirements (OPC 17.118)

In 1995, the City adopted Ordinance No. 13357 C.M.S., the Recycling Space Allocation ordinance, establishing standards to ensure consistency with the requirements of Chapter 18 of Division 30 of the State Public Resources Code 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.

City staff in the Planning and Building Department currently enforces the Recycling Space Allocation ordinance. The space allocation calculations currently in use will be updated to include space requirements for organics collection containers. Adding organics to the regulation will bring the program into full compliance with the updates CALGreen made in 2016, fulfills the requirements of SB 1383, and ensures new construction projects and alteration projects conform completely to this requirement.

Amendments to this ordinance will strengthen language requiring adherence to space allocation standards for municipal solid waste, recyclable materials and ensure that additional space is allocated for organic material collection at residential and non-residential enclosures.

California Model Water Efficient Landscape Ordinance (OMC 18.01)

In 2015, Governor Jerry Brown signed Executive Order B-29-15, resulting in revising the Model WELO (CCR Title 23, Chapter 2.7) to increase water efficiency standards for new and retrofitted landscapes.

In collaboration with the WMA, the City has complied with WELO requirements through the efforts of Planning and Building Department staff. The WELO sets water efficiency standards for new and retrofitted landscapes by encouraging the use of more efficient irrigation systems, gray water usage, onsite stormwater capture, and limiting the portion of landscapes covered in turf.

Adopting this proposed ordinance will create a new chapter in OMC, bringing the City's current practice into compliance with CCR Title 23, Chapter 2.7, and satisfy the SB 1383 requirement to adopt an enforceable mechanism. Compliance with WELO requires the use of both compost and mulch, ensuring long-term markets for products created from the increased diversion of organic waste from the landfill, which is a priority of SB 1383.

ANALYSIS AND POLICY ALTERNATIVES

Adopting new ordinances and the proposed amendments to the OMC and OPC are needed to ensure that the City has adequate enforceable mechanisms to implement the requirements of

SB 1383. If the City does not adopt the ordinances as drafted, the City may be deemed non-compliant with SB 1383 regulations and may initially be placed on a Compliance Plan. The Compliance Plan is a document the City must prepare describing actions it intends to take to comply with the regulations and provide anticipated dates for compliance. Compliance Plans must be approved at CalRecycle's monthly public meetings, and those plans are available to the public for review. Commencing January 1, 2022, further enforcement action against the City may include being subject to additional oversight by CalRecycle, violation noticing, additional hearings, and assessed penalties against the City ranging from \$500 up to \$10,000 per violation per day.

Adoption of the proposed ordinances supports the City's goal of building **vibrant, sustainable infrastructure**. New solid waste enclosures will have sufficient space for compost collection in addition to trash and recycling. A greater percentage of construction and demolition projects will be mandated to sort their discards for diversion from the landfill. Landscapes will be required to use greater amounts of mulch and compost, creating healthier landscapes that can withstand drought and absorb heavy rainfall. Food recovery organizations, both big and small, will have a more reliable source of donated food to feed the City's most burdened census tracts.

In addition, as the City implements these SB 1383 requirements, staff will endeavor to target outreach efforts to minimize disparity in enforcement. This will ensure that this policy action supports the City's goal of building a **responsive, trustworthy government**.

Adopt WMA Organics Reduction and Recycling Ordinance and Amend OMC 8.28, Solid Waste Collection and Disposal and Recycling

Adopting, and thereby opting-in to, WMA Ordinance 2021-02 will allow the City to continue collaborating with WMA staff to monitor commercial and multi-family compliance with mandatory recycling and organics collection services. Monitoring compliance involves requesting and receiving account data from all haulers providing recycling and organic collection in the County and other trash collection or property data to identify business and/or multi-family properties that would be subject to these laws. WMA sends courtesy notifications when compliance deadlines approach, Notices of Violation when no collection services are found or verified, and Warning Notices prior to issuing citations. The WMA also provides free technical assistance and training to businesses and multi-family properties upon request or when finding them to be out of compliance.

WMA Ordinance 2021-02 will also be a conduit to SB 1383 enforcement requirements of edible food recovery. Jurisdictions countywide recognized their inability to enforce food safety and other provisions on commercial food generators. Commercial food generators are instead regulated by the Alameda County Department of Environmental Health (DEH), and all jurisdiction staff agreed that having WMA coordinate with DEH is a more efficient way of engaging than each jurisdiction individually. Opting in to the WMA Ordinance 2021-02 ensures that the City has the opportunity to designate DEH as the enforcement agency to meet inspection and enforcement requirements for larger commercial edible food generators.

WMA staff will continue to provide the City with data and information to report to the State, which has proved to be an invaluable time-saver. WMA staff organizes information based upon State requirements and sends it to City staff to streamline compliance reporting.

The WMA assists its member agencies with additional outreach and implementation requirements by providing model outreach materials, model agreements to implement edible food recovery and aids jurisdictions with paper and compost procurement requirements. In addition to reducing implementation costs for the City, using WMA templates will create a streamlined experience across the County.

An additional benefit of being part of the WMA Ordinance 2021-02 is that the City maintains its leadership role in the county by continuing to help shape monitoring and enforcement practices and keeping equity in the conversation with all county jurisdictions.

The alternative to opting into the WMA Ordinance 2021-02 would require the City to implement all SB 1383 education, monitoring, and enforcement requirements using City resources or engaging a third party. This would result in the need to increase staffing and would require significant additional resources to inspect businesses in the field or perform acceptable and ongoing administrative reviews for commercial and multi-family properties. The City would need to absorb responsibility internally with additional City staff or engage and designate a third party to provide further technical assistance to set up collection systems and train staff and residents.

The City may attempt to engage with the DEH on its own and negotiate their assistance with inspections and other enforcement requirements. Data from their activities will need to be collected and provided to Recycling Program staff, who in turn would organize and submit the information to the WMA for them to have complete information about the status of compliance in the county and to the State for annual reporting. This is a less efficient system and requires additional resources to negotiate with the DEH and maintain all the necessary in-house program elements, including recruiting staff with expertise in safe food handling procedures and applicable food service laws.

The City may also engage a third-party contractor to perform all the services proposed under the WMA Ordinance 2021-02 as described above. However, a third-party consultant already well-versed in the SB 1383 requirements and the work of organic material recovery and diversion may not be readily available. This option may have a steep and expensive learning curve.

Adopting the amendment to OMC 8.28 will mainly align its definitions and existing requirements with SB 1383 regulations. The amendment will also incorporate the WMA Ordinance 2021-02 by reference, in addition to directly incorporating its language to facilitate public review and help them understand the requirements in one location.

Additionally, the amendment will strengthen the City's ability to conform to the wishes of the Council as indicated by the ECAP it adopted to ensure edible food recovery is required and supported and responds to the need to reduce wasted food which has climate impacts from the food generator up the food chain to the producer.

Lastly, WMA Ordinance 2021-02 limits its scope to notification and enforcement requirements. The OMC 8.28 amendment is needed to ensure that all remaining aspects of SB 1383 that are required to have ordinances or other enforceable mechanisms are memorialized in statute.

There is currently no viable alternative. Staff recommends the City Council adopt an ordinance to adopt, and thereby opt into, WMA Ordinance 2021-02 and amend OMC Chapter 8.28 to make changes to the “Solid Waste and Recycling Collection and Disposal and Recycling” chapter to comply with SB 1383 requirements.

CALGreen Construction & Demolition Recycling (OMC 15.34)

Adopting the proposed amendment to OMC 15.34 will identify all organic C&D material and require those to be diverted from the landfill. The amendment will also increase the number of projects requiring review for C&D debris recycling compliance. In general, all projects requiring a building permit are subject to SB 1383 regulatory requirements under CALGreen.

The current recycling plan and report review system are occasionally challenged to meet its goal to review and process Waste Reduction & Recycling Plans, and Construction and Demolition Summary Reports within three to five business days. To assist, Recycling Program staff has for the last ten years been creating workflow automation to reduce manual data entry and streamline submittal reviews and approvals.

Recycling program staff estimates that the volume of permits affected by the changes proposed in this ordinance will quadruple the workload. Additional workload increases will arise with economic booms. The increase in volume will easily overwhelm current Recycling Program staff capacity to review and process submittals in a timely manner. However, staff continues to refine the ability to use software applications and is working directly with Information Technology staff at OPW and Planning and Building Department to continue refining the system and identifying additional automation opportunities.

Additionally, staff expects to gain additional efficiency through the new Reimagining One-Stop Permitting process and have been working within that process to ensure new program resource needs, including workload management and all relative SB 1383 requirements, are built into the system.

There are no viable alternatives as the proposed ordinance simply makes conforming changes to state law. Staff recommends the City Council adopt an ordinance amending OMC Chapter 15.34 to make changes to the “Construction and Demolition Debris Collection, Transportation, Waste Reduction and Recycling Requirements” chapter to comply with SB 1383 requirements related to CALGreen’s requirements to recycle 65% of construction and demolition debris in affected projects.

CALGreen Space Allocation Requirements (OPC 17.118)

The existing Recycling Space Allocation system is already a well-established process within the Planning and Building Department. Inspection staff confirms compliance with CALGreen and Conditions of Approval standards. The proposed amendment will not have any appreciable impact on current practices.

No viable alternative policy option is available as the proposed ordinance amendment simply reinforces the existing requirement for space to house collection containers. The space allocation calculator already reflects the necessary volume of trash, recycling, and organics. The

amendment will highlight the material categories and further require the space remain allocated for all content types.

Staff recommends the City Council adopt an ordinance to amend OPC Chapter 17.118 incorporating space for organics in any new or renovated multi-family residential and non-residential buildings (that meet specified thresholds) to comply with SB 1383 requirements.

California Model Water Efficient Landscape Ordinance (OMC 18.01)

WELO is currently engrained in the City's permitting and inspection processes in the Planning and Building Department. New reporting requirements may require staff to develop best practices for data collection and reporting. Staff does not anticipate significant programmatic changes resulting from the adoption of the ordinance.

Staff recommends the City Council adopt an ordinance amending OMC Chapter 18 to add Section 18.01 to codify the State's Water Efficient Landscaping Ordinance to comply with SB 1383 requirements.

FISCAL IMPACT

Council's approval of the proposed ordinances will have no immediate fiscal impact. Mandatory organic material collection service is the main requirement of SB 1383. The City already provides recycling collection for cardboard and paper, and organics collection service through its existing exclusive franchise agreements. In addition, the adoption of the WMA Ordinance 2021-02 ensures that the City will benefit from WMA's technical assistance, education, and enforcement activities.

Adopting the proposed amendment to OMC 15.34 regarding CALGreen Construction & Demolition Recycling will result in more projects being subject to C&D debris recycling requirements and a significant rise in staff's workload. Nevertheless, as explained above, staff seeks to increase efficiency through automation and better workflow management and to address anticipated SB 1383 resource needs through the City's Reimagining One-Stop Permitting initiative. Furthermore, if the number of C&D recycling plan reviews quadruple as expected, it will lead to a revenue increase of approximately \$500,000 for Fund 1710 per year. Future authorization will be sought to use these funds to meet SB 1383 needs as necessary.

There is no impact on the General Purpose Fund, and no additional funding is requested.

PUBLIC OUTREACH / INTEREST

The State of California conducted a two-year iterative process in developing the SB 1383 regulations. Comments were received, and draft regulations were modified in response to comments from haulers, food recovery services and organizations, cities, joint power authorities, commercial organizations, disposal facility operators, compost facility operators, and others. City Recycling Program staff actively participated in the review and commented on the

draft regulations. Staff is also participating in a working group of jurisdictions organized by the WMA to develop public outreach materials to help jurisdictions comply with the law.

Before CalRecycle completed its regulations, the Recycling Program staff initiated and assisted the WMA in convening a countywide meeting with stakeholders, including food recovery organizations, food donation organizations, and enforcement agencies tasked explicitly with food safety and storage requirements. Staff later convened a meeting of these same organizations directly working in the City to understand the services they provide and the challenges they face. Recycling Program staff is currently working with District 1 food recovery and food distribution organizations on a pilot funded by the Community Development Block Grant with the hope to find solutions for challenges food recovery organizations face that the City can help solve.

Extensive outreach to the general public in the development of the City's ECAP on policy areas aligned with SB 1383's central requirements (MCW-1, Eliminate Disposal of Compostable Organic Material to Landfill and MCW-2, Strengthen Infrastructure and Partnerships for Edible Food Recovery) was also conducted as part of the City's ECAP. Throughout that process, eight community workshops, including one in each Council District, and two Town Halls were held. An online survey also drew nearly 800 respondents to provide their insights.

As staff works to implement these initiatives, available resources such as the Oakland Equity Indicator Report and the City's Department of Transportation's Geographic Equity Toolbox will be used to identify the City's most burdened census tracts for focused outreach efforts to ensure that there is no disparity in enforcement and also to help food banks better target recipients to reduce disparity. The Recycling Program staff has also been working with Sustainability staff to engage with the ECAP's Oakland Climate Action Network, a partnership with local community organizations for ongoing collaboration, communication, and mutual accountability, on the impending SB 1383 policy requirements to ensure inclusive engagement and reduce disparities during implementation.

COORDINATION

In preparation for SB 1383 and WMA Ordinance 2021-02 program implementation, Recycling Program staff communicated with several City divisions to understand the potential impacts of the new requirements. Recycling Program staff met with OPW Sustainability Program, OPW Parks Maintenance, OPW Creeks, Watershed and Stormwater, Department of Human Services, and Department of Parks and Recreation. Due to the nature of these requirements, staff also coordinated with external agencies such as the WMA, Alameda County All-In Eats program, and the Alameda County Community Food Bank. Future implementation of the proposed ordinances will also be coordinated through many of the above workgroups.

In collaboration with Planning and Building Department, staff will bring the recommendations to the Oakland Planning Commission for review before submitting them to the City Council.

This report and ordinances have been reviewed for form and legality by the Office of the City Attorney and the Budget Bureau of the Finance Department.

SUSTAINABLE OPPORTUNITIES

Economic: Reducing food waste and increasing edible food recovery will help support the numerous non-profits engaged in feeding Oakland residents in need. Staff has observed several new business models centered around food transportation subscriptions, including mobile apps such as Olio for small generators and residents to donate to their neighbors, and Too Good To Go that matches available food from commercial generators to consumers rather than wasting unsold surplus food. Reducing wasted food and edible food recovery has already resulted in businesses looking at the value of food and increasing opportunities to sell food otherwise thrown out.

The Pacific Coast Collaborative work previously described is developing food waste reduction best practices to share with commercial edible food generators. These are practical operational and supply chain solutions that can reduce costs associated with landfill and composting and lead to a higher profit margin for these businesses. These changes are not expected to impact the amount of food available for donation significantly. Commercial edible food generators currently donate a significant amount of food, yet still have considerable amounts of food ending up in landfills or as compost.

Other requirements of WMA Ordinance 2021-02, such as container contamination monitoring and container delivery services, can bring job or entrepreneurial opportunities to the City and the region. The imaginative nature of the City's residents and businesses will no doubt lead to other economic opportunities from these new requirements, not yet envisioned at this time.

Environmental: SB 1383 builds upon previous regulations to reduce organic waste disposal in landfills. It aims to reduce the emissions of short-lived climate pollutants and subsequently help mitigate the effects of climate change. Landfilling organic waste leads to the anaerobic breakdown of that material, creating short-lived climate pollutants and potent greenhouse gases such as methane. Reducing methane and other similar short-lived climate emissions is paramount in combating the impacts of climate change and air pollution.

Race & Equity: The benefits of adopting these ordinances include mitigating the adverse effects of short-lived climate pollutants on frontline communities and reducing food insecurity in the same neighborhoods. In addition, the City will maintain its commitment to accountability with regular tracking and reporting as mandated by SB 1383 to ensure no additional disparities are created through program implementation and enforcement. Furthermore, one of the goals of SB 1383 is to recover edible food from disposal to combat food insecurity in California. SB 1383 requires that by 2025 there be a 20% increase in the recovery of currently disposed of edible food. The diversion of edible food from landfills to feed people prioritizes the highest and best use of previously wasted food, and adoption of these ordinances will help the City reduce the number of food-insecure residents.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The four proposed ordinances reflect SB 1383 requirements and are adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 regulations were the subject of a program

Environmental Impact Report (EIR) (**Attachment A**) prepared by CalRecycle. Except for provisions in the WMA Ordinance 2021-02 that maintain the already established requirements, the activities to be carried out under these four ordinances are entirely within the scope of the SB 1383 regulations and that EIR. No mitigation measures identified in the EIR apply to the City's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR have occurred as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163. Therefore, the CalRecycle EIR adequately analyzes any potential environmental effects of the four ordinances, and no additional environmental review is required.

On a separate and independent basis, these four ordinances are exempt from CEQA under CEQA Guidelines 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 permitted by California law to ensure maintenance or protection of the environment.

ACTION REQUESTED OF THE CITY COUNCIL

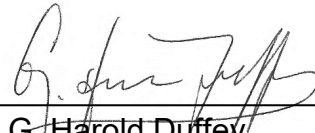
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1. Adopt An Ordinance Adopting Alameda County Waste Management Authority Organics Reduction And Recycling Ordinance 2021-02 (WMA Ordinance 2021-02); Amending Oakland Municipal Code Chapter 8.28 To Make Conforming Amendments For Consistency With WMA Ordinance 2021-02 And To Comply With Senate Bill 1383; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings; And
2. Adopt An Ordinance Amending Oakland Municipal Code Chapter 15.34 (Construction And Demolition Debris Collection, Transportation, Waste Reduction And Recycling Requirements), To Comply With Senate Bill 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 The California Green Building Standards Code (CALGreen) Sections 4.408.1 And 5.408.1 To Divert 65% Of Construction And Demolition Debris; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings; And
3. Adopt An 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 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; And

4. Adopt An Ordinance Amending Oakland Municipal Code By Adding Chapter 18.01 (Water Efficient Landscaping Ordinance), To Comply With The State Requirement To Promote Water Conservation And Efficient Use Of Water In Landscaping; And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Wanda Redic, Senior Recycling Specialist, at (510) 238-6808.

Respectfully submitted,



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Attachments (1):

A: Final Environmental Impact Report for SB 1383 Regulations

