



## **CITY OF SALINAS COUNCIL STAFF REPORT**

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**DATE:** FEBRUARY 15, 2022

**DEPARTMENT:** PUBLIC WORKS

**FROM:** DAVID JACOBS, DIRECTOR

**BY:** BRIAN FRUS, SENIOR ENGINEER

**TITLE:** SENATE BILL 1383 ORGANICS RECYCLING MANDATED  
MUNICIPAL CODE UPDATE

### **RECOMMENDED MOTION:**

A motion to adopt an Ordinance implementing the necessary updates to Chapter 14 of the Municipal Code to comply with Senate Bill 1383 and the California Department of Resource Recycling and Recovery (CalRecycle) mandate.

### **RECOMMENDATION:**

Staff recommends that the City Council adopt the proposed Ordinance to bring the City's Municipal Code into compliance with SB 1383 and the CalRecycle mandate.

### **EXECUTIVE SUMMARY:**

Senate Bill 1383 is designed to reduce greenhouse gas (GHG) emissions, divert organic material from landfills and to help recover edible food for human consumption. This Municipal Code update allows for the City to codify the needed changes to comply with CalRecycle requirements and SB 1383, including enforcement mechanisms. The State of California finalized language and regulation associated with SB 1383 in 2020. Regulations and compliance for residents and businesses begins January 2022 or January 2024 depending on the type and size of service. Significant efforts are also required to create a process to recover edible food for human consumption, and to track the creation, disposal and recovery of organic material and/or edible food. Additionally, contrary to previously passed diversion and recycling statutes, SB 1383 directly involves residents in diversion and recovery. The City, the Franchise Hauler, and Salinas Valley Solid Waste Authority have been tasked with expanding outreach, education, monitoring and enforcement to comply with SB 1383.

### **BACKGROUND:**

In 2017, the State set a goal to reduce statewide disposal of organic waste by 50% from the 2014 level by 2020, and by 75% from the 2014 level by 2025. In order to meet these goals, the State has implemented requirements for the recycling of organic waste and the recovery of edible food that would otherwise be thrown away.

Most recently, the State has imposed regulations to implement these goals in Title 14, Division 7, Chapter 12 of the California Code of Regulations, entitled “Short-Lived Climate Pollutants.” These regulations were developed and adopted in response to California Senate Bill 1383, so they are often referred to as the “SB 1383 Regulations.”

The SB 1383 Regulations place several new requirements on cities, waste haulers, and producers of organic waste, both businesses and residents, including:

- Providing organic waste collection to all residents and businesses
- Establishing an edible food recovery program that recovers edible food from the waste stream
- Conducting outreach and education to all affected parties, including generators, haulers, facilities, edible food recovery organizations, and city/county departments
- Capacity Planning (Evaluating our readiness to implement SB 1383)
- Procuring recycled organic waste products like compost, mulch, and renewable natural gas (RNG)
- Inspecting and enforcing compliance with SB 1383
- Maintaining accurate and timely records of SB 1383 compliance

Most importantly, for the purposes of this report, the SB 1383 Regulations require cities to adopt an ordinance and/or other enforceable mechanisms to enforce the regulations.

## DISCUSSION:

In response to this requirement, City staff have worked with the Salinas Valley Solid Waste Authority, R3 Consulting and the City Attorney’s Office to draft the proposed Ordinance, which is the first step toward bringing the City into compliance with the SB 1383 Regulations.

### Ordinance Contents

Some of the most significant issues proposed by the Ordinance include:

- 1) The addition of several new definitions, which reflect the increasingly technical and complicated nature of State law in this area.
- 2) Automatic enrollment of all businesses and residents in a waste collection service that provides for recycling of both non-organic recyclables (e.g., bottle, cans, plastics, and glass) and organic waste (e.g., food, green waste, wood, and paper products), unless the business or resident obtains a waiver. The primary reasons the City will grant waivers will be (a) if a business does not have sufficient space on its property for an organic waste container, or (b) if a business produces no organic waste or a de minimis amount of organic waste.
- 3) Several new requirements for commercial edible food generators, including grocery stores, businesses that distribute food to grocery stores, wholesale food vendors, restaurants over a

certain size, hotels and health facilities over a certain size that have food facilities, and certain event venues. These generators must make arrangements to recover as much edible food as possible that would otherwise be thrown away, including contracting with food recovery organizations, and keep records of such efforts.

- 4) A requirement for the City's franchised waste hauler to provide a solid waste collection service that will comply with the SB 1383 Regulations. This was addressed through the new Franchise Agreement approved on September 28, 2021 with Allied Services of North America, LLC dba Republic Services of Salinas.
- 5) A requirement for self-haulers (individuals and businesses that haul their own solid waste) to obtain a permit from the City, separate non-organic recyclables and organic waste from other solid waste, take their waste to a permitted waste processing facility, and (for businesses) keep records of the amount of organic waste delivered to the solid waste processing facility.
- 6) Requirements on businesses (including owners of multifamily dwellings) to educate their tenants and employees about the new organic waste recycling requirements and provide appropriate separate waste containers for organic waste.
- 7) Provisions delegating primary authority for implementation of this ordinance to the City Manager, and a recognition of the hauler's role to maintain compliance.
- 8) State-mandated penalties for violations, with residential penalties set at the minimum range. SB 1383 Regulations allow for the City to take an educational and non-punitive approach for the first two years (2022-2023).

The proposed regulations will take effect thirty days following the City Council's adoption of the Ordinance.

### Non-Compliance

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 the City 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.

While SB 1383 is an unfunded State mandate, the City is in a strong position to meet the requirements, and the City will be one step closer to becoming SB 1383 compliant with the adoption of the proposed ordinance.

#### Rates

In September 2021 the City approved a new Franchise Agreement with Republic Services, the City's hauler. The Franchise Agreement sets rates for all users. However, service fee adjustments may be requested by the hauler for certain changes in law, material changes in cost, etc. The requirement of a third container on commercial sites may also require certain businesses to pay for the additional service consistent with the rates set by the Agreement. The City Council approved rates for organics collection at the September 28, 2021, meeting.

#### Additional Actions for Implementation of SB 1383 Regulations

The City has already adopted the recycling requirements as part of the California Green Building Standards Code (Municipal Code section 9-1), and water efficient landscaping requirements (Municipal Code Chapter 36A-3). However, the City will also need to establish a recycled products purchasing policy, to comply with additional requirements under SB 1383.

#### Enforcement

Initial contact to seek voluntary compliance will be handled by Republic Services and the Salinas Valley Solid Waste Authority. Violations will then be referred to the City's Code Enforcement Officer for additional warnings and citations.

Proposed penalties are as follows:

##### Commercial:

First violation	\$100 per violation
Second violation	\$200 per violation
Third violation	\$500 per violation

##### Single-family Residential:

First violation	\$50 per violation
Second violation	\$100 per violation
Third violation	\$250 per violation

Administrative remedies are also available to ensure compliance.

#### CEQA CONSIDERATION:

**Not a Project.** The City of Salinas has determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines Section 15378).

STRATEGIC PLAN INITIATIVE:

This approval is largely to comply with State a mandate but to the extent that non-compliance could result in fines to the City, it relates to City Council’s Strategic Plan goal of “Risk Mitigation.”

DEPARTMENTAL COORDINATION:

The Water, Waste and Energy Division in Public Works will coordinate with the City Attorney’s office as necessary to implement the changes to the Municipal Code. This will also involve communication with staff in Community Development Code enforcement once approved.

FISCAL AND SUSTAINABILITY IMPACT:

Much of the costs associated with the implementation of these regulations were addressed through the approval of the new Franchise Agreement which places a number of responsibilities on Republic Services. The City will however incur labor costs for administration and submission of CalRecycle reports and other communications, as well as increased Code Enforcement efforts. However, the new Franchise Agreement provides a one-time payment of \$300,000 to paid to the City for immediate SB 1383 support.

ATTACHMENTS:

Ordinance