



## City Council Agenda Item

**City Council Meeting Date:** March 1, 2022

**TO:** Dean Albro, City Manager

**FROM:** Keith Quinlan, Solid Waste Superintendent  
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**SUBJECT:** Introduction of Ordinance No. 1691(22) Implementing Senate Bill 1383 Requirements Relating to Organic Waste Disposal Reduction

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### **Recommendation:**

Staff recommends the City Council introduce, for first reading by title only with further reading waived, Ordinance No. 1691(22) (the Ordinance), adding Article 6 to Chapter 8.04 of Title 8 of the Lompoc Municipal Code (LMC) which mandates organic waste disposal reduction.

### **Background:**

Senate Bill (SB) 1383, the Short-Lived Climate Pollutant Reduction Act of 2016 is the most significant waste reduction mandate to be adopted in California in the last 30 years. SB 1383 requires reduction of organic waste (food waste, green waste, paper products, etc.) disposed in landfills by 75% by 2025 (20 million tons annually). The law also requires that, by 2025, 20% of currently disposed edible (unexpired) food be recovered and distributed to food recovery organizations – such as food banks or food donation centers – recovering the maximum amount of edible food that would otherwise be disposed of for human consumption. To achieve those goals, SB 1383 mandates jurisdictions enact ordinances that establish new programs, monitoring, enforcement, and reporting. **This law has significant policy and legal implications for the state and local governments, including the City of Lompoc.**

To comply with SB 1383, the City must adopt an ordinance that is consistent with regulatory requirements. The proposed Ordinance will require the City to adequately resource (i.e., fund, develop, implement, monitor, and report) the following programs related to SB 1383:

- (1) The City must provide mandatory organic waste curbside collection services to all residents and businesses.

- A. In addition to current trash, recycling, and green waste collections, the City must implement a collections program for all organic waste, including food waste, wood waste, manure, fibers, etc.
  - B. The City's current collections container inventory must be converted to colors prescribed (gray for trash, blue for recycling, and green for organics).
  - C. The City must label containers and monitor the containers for contamination.
  - D. The City must assess current collections programs and evaluate for any necessary amendment or expansion.
- (2) The City must implement an edible food recovery program for all commercial edible food generators such as supermarkets, food distributors, wholesale food vendors, and restaurants.
- A. The City must ensure commercial edible food generators execute agreements with edible food recovery organizations to recover the maximum amount of edible food that would otherwise be disposed, as well as keep records.
  - B. The City must report annually on commercial edible food generators including which food recovery organization received the food, the types of food, frequency of collection, and quantities of food recovered.
  - C. The City must report annually on food recovery organizations including the total pounds of edible food recovered from each commercial edible food generator.
  - D. The City must participate in edible food recovery capacity planning and implement a schedule demonstrating how it will ensure adequate capacity if additional capacity is needed. This may entail providing funding to ensure there is adequate capacity and collection services for edible food recovery.
- (3) The City must conduct education and outreach to all organics generators.
- (4) The City must procure certain levels of recovered organic waste such as recycled content paper and paper products, mulch, compost, renewable gas used for transportation fuels, electricity, heating applications, or electricity from biomass conversion produced from organic waste regardless of cost. (The City's Purchasing Guidelines will require updating to meet this requirement.)
- (5) The City must monitor compliance and conduct enforcement.
- A. Monitoring and education begins as soon as the Ordinance takes effect (early 2022).
  - B. Violations after January 1, 2024, require enforcement.
- (6) The City must perform the following at the Lompoc City Landfill:
- A. Quarterly audits of refuse containers.
  - B. Submission of annual Organic Disposal Status Reduction Impact Reports to the State beginning January 1, 2023.
  - C. Implementation of organic waste recovery activities that divert organic waste from landfill disposal.
- (7) The City must have an enforceable mechanism that complies with baseline requirements of the Model Water Efficient Landscape Ordinance (MWELo). The City previously adopted a MWELo (LMC Section 15.52.020 Specific Landscape Design Standards).

- (8) The City must have an enforceable mechanism pursuant to the California Green Building Standards Code related to:
- A. Construction and demolition (C&D) material recycling requirements for organic waste commingled with C&D; and
  - B. Adequate space for recycling for multi-family and commercial premises. The City previously adopted the California Green Building Code (LMC Section 15.68.010 California Green Building Standards Code, 2016 Edition, Adopted).

On January 1, 2022, SB 1383 went into effect. The intent of the legislation is to substantially reduce greenhouse gas emissions. SB 1383 directs CalRecycle, by 2025, to divert 75% of methane-producing organics from landfills and recover 20% of edible food that would otherwise be disposed for human consumption. Edible food is defined as food intended for human consumption that meets the food safety requirements of the California Retail Food Code; that code establishes uniform statewide health and sanitation standards.

The City is responsible for the implementation and enforcement of SB 1383. All organic waste generators in the residential and commercial sectors have obligations under the law and the City must adopt an Ordinance requiring organic waste generators to comply with the regulations.

Currently, State law (under Assembly Bill 1826), requires all businesses that generate two or more cubic yards of solid waste per week to divert their organic waste from landfills. Starting January 1, 2022, under SB 1383, the two cubic yard threshold will be eliminated, meaning all businesses are required to participate. In addition, large food-generating businesses, such as grocery stores, food wholesalers, and large restaurants, are required to donate edible food to food recovery organizations, which will direct it to those in need.

**Discussion:**

To assist jurisdictions with the requirements of SB 1383, CalRecycle developed a “Model Mandatory Organic Waste Disposal Reduction Ordinance”, which was released in early 2021. Staff tailored CalRecycle’s model ordinance and recommends adopting the proposed Ordinance as Article 6 of Chapter 8.04 of Title 8 of the LMC regulating mandatory organic waste disposal reduction. Proposed Article 6 language includes:

- Single-family dwelling obligations to subscribe to organics recycling collection service and properly separate materials for collection;
- Multi-family dwelling and business obligations to provide adequate organics recycling and standard recycling;
- A de minimis organics waiver option for commercial properties and a physical space constraint waiver option for existing commercial and multi-family properties;
- Food donation requirements for large edible food generating businesses;
- Recordkeeping and reporting requirements for food recovery organizations and services;

- Public education, technical assistance, and reporting requirements for franchised waste haulers;
- Hauling, recordkeeping, and reporting requirements for self-haulers and facilities;
- Inspections and enforcement; and
- A compliance process and penalties for residential, commercial, and multi-family properties, as mandated by SB 1383.

The Ordinance will be the City's first step in creating meaningful enforcement measures to comply with SB 1383. However, although staff and the City Attorney's Office have closely followed direct guidance from CalRecycle with respect to the terms and provisions of this Ordinance, the programs enacted by SB 1383 are so new, complex, and comprehensive that there is some uncertainty as to how the programs will function in actual practice. Once staff has performed actual implementation and work pursuant to the Ordinance and SB 1383 regulations, the City may discover the need for additional amendments to the Ordinance to coincide with actual practice.

**Fiscal Impact:**

There are no fiscal impacts to update the Lompoc Municipal Code. However, there will be significant cost impacts to the City associated with the implementation and enforcement of this mandatory regulation. SB 1383 implementation will entail additional staffing and administrative costs to the City. At this time, an accurate account of additional costs is not known and will not be known until actual program implementation is undertaken. The Solid Waste Enterprise Fund will fund activities related to collections and landfill operations, but there may be costs to the General Fund associated with Citywide implementation and enforcement. With SB 1383 being the most significant waste reduction law in the past three decades, the full costs to the City cannot be known at this time.

There are no viable alternatives. The City is required to adopt an ordinance or other enforceable mechanism in compliance with SB 1383 or be subject to penalties up to \$10,000 per day.

**Conclusion:**

Adoption of the Ordinance provides the legal framework for the City to comply with SB 1383. The City, residents, and businesses will have various requirements to meet in order to comply with the Ordinance.

Respectfully submitted,

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Keith Quinlan, Solid Waste Superintendent

**APPROVED FOR SUBMITTAL TO THE CITY MANAGER:**

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Charles J. Berry, Utility Director

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Dean Albro, City Manager

Attachment: Ordinance No. 1691(22)