



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 11/02/2021

ITEM NO: 13

DATE: October 27, 2021
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Introduction and First Reading of an Ordinance Amending the Los Gatos Town Code Chapter 11 Regarding Garbage, Refuse, and Weeds to Include Organic Waste Disposal Reduction and Amending Sections Conflicting with Ordinance Definitions and Requirements.

RECOMMENDATION:

Accept public comment then move for the introduction and first reading of an Ordinance (Attachment 1), by title only, amending the Los Gatos Town Code Chapter 11 regarding Garbage, Refuse, and Weeds to include Organic Waste Disposal Reduction and amending sections of the existing Code (Exhibit A) conflicting with Ordinance definitions and requirements.

BACKGROUND:

In September 2016, Governor Jerry Brown signed into law [Senate Bill 1383](#) (SB 1383), with regulations finalized in November 2020. The purpose of this bill is to establish methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP). SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years.

SB 1383 established targets to achieve a 50 percent reduction in the level of statewide disposal of organic waste from 2014 levels by 2020 and a 75 percent reduction by 2025. Additionally, a food recovery target was established, including a target that no less than 20 percent of current disposed of edible food is recovered for human consumption by 2025. SB 1383 grants the California Department of Resources Recycling and Recovery (CalRecycle) the regulatory authority required to achieve the organic waste disposal reduction targets. To reach this goal, CalRecycle implemented initiatives to reduce the amount of solid waste sent to

PREPARED BY: Marina Chislett
Environmental Program Specialist

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

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BACKGROUND (continued):

landfills and promote recycling in California, including organic waste recycling. The law focuses on residential and commercial trash generators, with both performance targets and penalties levied against the jurisdiction for non-compliance.

For the Town of Los Gatos, solid waste collections are managed by the West Valley Solid Waste Management Authority (WVSWMA) where Councilmember Mary Badame has represented the Town since January 2020. SB 1383 has been discussed with the WVSWMA in the course of that agency's regular business. On May 4, 2021, the WVSWMA Executive Director, Marva Sheehan, provided an SB 1383 implementation update to the Town Council. On October 5, 2021, Senate Bill 619 (SB 619) was signed into law granting jurisdictions an extension for compliance of SB 1383, with written intent to comply no later than May 1, 2022. SB 619 does not change the required implementation date of January 1, 2022.

DISCUSSION:

Enactment of SB 1383 requires extensive collaboration between the Town of Los Gatos and the WVSWMA to achieve compliance. Town staff are working diligently with the WVSWMA on SB 1383 progress and program implementation. The Town's current implementation compliance requirements include the adoption of new organic waste disposal reduction requirements as presented in the draft Organic Waste Disposal Reduction Ordinance in Attachment 1. The new ordinance includes single-family, commercial, and multi-family requirements; waiver requirements; edible food generator and edible food recovery requirements; hauler requirements; and inspections and enforcement. Below are summaries of the Ordinance sections with the incorporated SB 1383 regulations.

Single-family, commercial, and multi-family requirements proposed in Sections 11.50.15 and 11.50.20:

- Generators of discarded materials shall participate in the franchised haulers collection services;
- Containers for discarded waste must adequately provide collection for separation of discarded materials through size, service rate, and designated container colors (e.g., solid waste containers must have a black body or lid, recycling containers must have a blue body or lid, and organic containers must have a green body or lid);
- Generators shall not place prohibited container contaminants in collection containers (e.g., generators shall not place materials designated for the solid waste container into either the recyclable or organic materials container);

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DISCUSSION (continued):

- Commercial businesses and multi-family residential dwellings shall provide education information to occupants regarding the new regulations; and
- Commercial business shall provide containers for the collection of recyclable and organic materials in all indoor and outdoor areas that solid waste is collected.

Waiver requirements proposed in Section 11.50.25:

- The Town or WVSWMA may waive a commercial business or multi-family residential dwellings obligation to the Ordinance if the generator generates below a certain amount of discarded materials, or the premises lacks adequate space for the collection containers required for compliance.

Edible food generator and food recovery requirements proposed in Sections 11.50.030 and 11.50.035:

All Santa Clara County jurisdictions have worked together to create uniform edible food generator sections in the draft Ordinance. It is beneficial to maintain these County-wide uniform sections as food generators and food recovery services tend to operate throughout the County and benefit from that scale.

- Recover edible food that would otherwise be disposed;
- Arrange agreement with a food recovery organization or food recovery services to collect and accept edible food;
- Keep records of the recovery organization and services that are used and the quantity of edible food saved from the landfill; and
- Submit food recovery reports to the designated enforcement entity.

Hauler requirements proposed in Section 11.50.040:

SB 1383 hauler requirements have been incorporated in the current franchise agreement between West Valley Collection & Recycling and the WVSWMA.

- Hauler shall transport recyclable, organic, and solid waste materials to facilities approved by the WVSWMA through the franchise agreement; and
- Hauler shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement.

Inspection and enforcement requirements proposed in Sections 11.50.060 and 11.50.065:

Due to the nature of franchise agreements and countywide programs, the act of inspections and enforcement within the Ordinance vary by enforcement entity (Town, WVSWMA, exclusive haulers, and the administrators of the countywide edible food generator and recovery program).

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DISCUSSION (continued):

- To confirm compliance and enforcement of the regulations, the enforcement entity is authorized to conduct inspection and investigations of any collection of discarded materials collected from entities regulated by the applicable laws;
- Regulated entities shall provide or arrange for access during inspections and route reviews. This section does not allow the enforcement entity to enter the interior of a private residential property for inspection;
- Violation of the Ordinance shall constitute grounds for issuance of a notice of violation and assessment of a fine; and
- Penalty amounts and appeals process carried out by the Town will follow Los Gatos Municipal Code chapter 1.30.

Miscellaneous: SB 1383 Organic Waste Procurement Requirements (Administrative Policy):

Although not a part of the recommended ordinance, SB 1383 requires each jurisdiction to procure recovered organic waste products including compost, renewable gas, and/or electricity from biomass conversion at a formulaic quantity set by the State. Jurisdictions are also responsible for procurement of recycled-content paper consistent with Public Contract Code (§18993.3). All procurement requirements require ongoing tracking of quantity, materials purchased, and an explanation if no feasible options were available, to be reported to CalRecycle annually.

The procurement target for the Town of Los Gatos is 2,479 tons of organic waste. Town staff has explored the possibility of reaching procurement targets with the purchase, use, and giveaway of certified compost and mulch. This could achieve an estimated 3% of the procurement target at a significant cost to the Town, an approach that appears ineffective and therefore infeasible. Staff is working closely with WVSWMA, Silicon Valley Clean Energy, as well as other municipalities and organizations in identifying organic waste procurement compliance options, with the potentiality of achieving compliance through a regional effort. Future approaches to compliance will be incorporated into Town procedures and policies.

CONCLUSION:

Staff recommends that the Town Council introduce the first reading of an ordinance amending the Los Gatos Town Code Chapter 11 regarding Garbage, Refuse, and Weeds to include Organic Waste Disposal Reduction and amending sections that conflict with Ordinance definitions and requirements.

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COORDINATION:

This report was coordinated with the WVSWMA.

FISCAL IMPACT:

The overall implementation of SB 1383 will include increased costs for the waste hauler and administrative services as well as increased Town staff time. These costs will be recovered through increased solid waste collection rates. Rates in the current fiscal year increased to \$40.11 from \$35.16 for the most common, 35-gallon residential cart rate, largely due to SB 1383 impacts. This is a 14% rate increase as opposed to the typical annual increase range of 4% - 8%. Organic waste procurement requirement costs are still to be determined as staffs continues to explore options for compliance.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Draft Ordinance with Exhibit A - Amendment to Chapter 11 – Garbage, Refuse and Weeds.