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Title: Staff Report for a City of San Leandro City Council Ordinance Adding Chapter 3-24, Organics Reduction and Recycling, to the San Leandro Municipal Code to Incorporate an Ordinance of the Alameda County Waste Management Authority to Reduce the Amount of Organic and Recyclable Materials Deposited Into Landfills

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Staff Report for a City of San Leandro City Council Ordinance Adding Chapter 3-24, Organics Reduction and Recycling, to the San Leandro Municipal Code to Incorporate an Ordinance of the Alameda County Waste Management Authority to Reduce the Amount of Organic and Recyclable Materials Deposited Into Landfills

SUMMARY AND RECOMMENDATIONS

The Short-Lived Climate Pollutants Act (SB 1383) sets methane emissions reduction targets for California in a statewide effort to reduce short-lived climate pollutants. The law establishes requirements for the procurement of organic waste products and recycled content paper products. To ensure consistent implementation of SB 1383 countywide, the Alameda County Waste Management Authority (StopWaste) adopted the Organics Reduction and Recycling Ordinance (ORRO) to serve as the enforcement mechanism required by SB 1383. In order for the ORRO to apply in the City, the City must adopt an ordinance declaring that it will apply within the City of San Leandro. Staff recommends that the City Council introduce an Ordinance adopting Chapter 3-24, Organics Reduction and Recycling, to the San Leandro Municipal Code.

BACKGROUND

The Short-Lived Climate Pollutants Act (SB 1383) was signed into law by Governor Brown in 2016. The law mandates that California decrease organic waste sent to landfill by 75% from 2014 levels and increase edible food recovery by 20% by the year 2025. It also requires the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane. Methane is a powerful greenhouse gas that contributes to climate change. According to CalRecycle, approximately 20% of California’s methane emissions come from organic materials such as food scraps, yard trimmings, and paper and cardboard being sent to landfill. Diverting organic waste to recycling facilities, rather than landfills, can significantly

reduce greenhouse gas emissions and mitigate the impact of climate change.

Jurisdictions are the primary entities responsible for implementation and enforcement of SB 1383 requirements, which affect all organic waste generators in the residential and commercial sectors. Waste haulers, food recovery organizations, and procurement partners also have significant roles. Jurisdictions must adopt an ordinance and other enforceable mechanisms by January 1, 2022 requiring these organic waste generators to comply with the regulations.

Currently, the Mandatory Organics Recycling Act (AB 1826) requires all businesses that generate two or more cubic yards of solid waste per week to divert their organic waste from landfill. Starting January 1, 2022, the two cubic yard threshold is eliminated, meaning all businesses will be required to participate. In addition, large food-generating businesses such as grocery stores, food wholesalers, and large restaurants will be required to donate edible food to food recovery organizations who will direct it to those in need.

The City's compliance over the years with State mandates is aided by its membership in the Alameda County Waste Management Authority (StopWaste). In 2012, San Leandro joined StopWaste's Mandatory Recycling Ordinance 2012-1 (MRO) to standardize implementation and enforcement throughout the County. The MRO played a major role in the expansion of the City's recycling and composting programs. The MRO is still in effect today but will be superseded by StopWaste's Organics Reduction and Recycling Ordinance (ORRO) as implementation efforts shift to SB 1383.

Analysis

SB 1383 is the most significant legislation impacting solid waste and recycling in California in the last 30 years. While residents, businesses, food recovery organizations and City staff all have roles in SB 1383 implementation, the City is ultimately responsible for complying with all requirements of the law. CalRecycle could potentially fine jurisdictions from \$500 to \$10,000 per day for non-compliance, depending on the severity of the violation.

To assist member agencies and ensure consistent implementation of SB 1383 countywide, StopWaste adopted the Organics Reduction and Recycling Ordinance (ORRO) on July 28, 2021. The ORRO provides StopWaste and the Alameda County Department of Environmental Health (ACDEH) authority to enforce the ordinance at the countywide level. To demonstrate compliance, jurisdictions must adopt an ordinance to opt-in to the ORRO. The ORRO requires:

1. Businesses, multi-family properties and single-family residents to subscribe to solid waste and recycling collection services, and to sort materials properly;
2. Businesses and multi-family properties to provide labeled containers in prescribed colors for use by employees, tenants and contractors;
3. Regulated haulers to perform regular route reviews for contamination, notify customers of SB 1383 requirements and make customer non-compliance data available to the City and StopWaste;
4. Commercial edible food generators to recover edible food, have a contract with food recovery organizations, and keep monthly records;
5. Food recovery organizations and transporters to keep records and report amount of food collected; and
6. Jurisdictions to track compliance and conduct enforcement, including assessing penalties for continued non-compliance.

The Oro Loma Sanitary District is responsible for compliance with all regulations in their service area except for the purchase of recovered organic waste products. StopWaste will provide assistance to the City and the Oro Loma Sanitary District with implementation and enforcement of SB 1383 in the areas provided below.

Provision of Service, Outreach, and Contamination Monitoring

Jurisdictions must ensure that all residents, multi-family dwellings and businesses subscribe to organics and recycling collection service. Using systems developed for MRO enforcement and subscription data supplied by Alameda County Industries (City service area), StopWaste will lead enforcement on the provision of service requirements for multi-family dwellings and businesses.

Jurisdictions are required to conduct education and outreach to all generators, food recovery organizations and City staff about how to prevent organic waste generation, proper recycling of organics and donation of recovered edible food. Outreach materials must be translated into any non-English language spoken by a substantial number of the public. StopWaste will assist member agencies by developing print and electronic outreach templates, as well as a website dedicated to SB 1383 education to support residents, businesses and jurisdictions. Recycling Program staff will integrate these resources into the City's outreach and education efforts.

At least annually, jurisdictions are required to monitor garbage, recycling, and organics containers for proper sorting and to identify contamination. If contamination is found, jurisdictions must conduct additional outreach and education to those generators. As required by the ORRO, Alameda County Industries (ACI) will conduct annual route reviews and provide outreach to generators where contamination is identified. Recycling Program staff will work with ACI to distribute general SB 1383 outreach to residential and commercial generators through billing inserts, in-person visits and information posted to the hauler's and the City's website.

Edible Food Recovery and Capacity Planning

Jurisdictions must establish a food recovery program for commercial food generators (e.g. grocery stores, restaurants, wholesale food distributors, etc.) and food recovery organizations, like food banks and local non-profits, to ensure diversion of the maximum amount of edible food from the waste stream. Jurisdictions must also ensure that food generators and recovery organizations comply with contract and recordkeeping requirements. StopWaste has developed a countywide list of commercial food generators subject to the regulations and has engaged the Alameda County Department of Environment Health (ACDEH) as a partner. ACDEH will include edible food recovery program compliance monitoring into their inspections of regulated Retail Food Facilities. For the jurisdictions that opt-in to the ORRO, ACDEH Inspectors will distribute education materials and offer technical assistance to food generators on behalf of Alameda County jurisdictions, as required by SB 1383. StopWaste is working with ACDEH to finalize a model Memorandum of Understanding (MOU) that member agencies can adopt to define the division of responsibilities.

In partnership with counties, jurisdictions are required to evaluate local compacity to implement SB 1383 requirements including organics collection, recycling and edible food recovery capacity. StopWaste will work with jurisdictions to determine available organics recycling capacity and take the lead on the required edible food recovery capacity study.

Recovered Organic Waste Product Procurement

SB 1383 mandates that jurisdictions procure recycled organic products such as compost, mulch,

renewable natural gas (RNG), and electricity. The prescribed amount of 0.08 tons per resident means that San Leandro will be required to procure about 7,200 tons of recovered organic waste products annually. This number encompasses the entire population for the incorporated City limits. For context, San Leandro distributes 3,000 1-cubic foot bags of compost at the annual giveaway held for San Leandro residents at a cost of approximately \$2.91 per bag. If San Leandro were to meet this requirement solely through the purchase of compost, the City would have to purchase 388,800 bags costing more than \$1.1M. Given the amount of materials necessary to meet procurement requirements, and particularly the lack of availability of qualifying products in the marketplace, it will be difficult for San Leandro to comply with the procurement requirements in the immediate future. Eventually, as supply rises to meet demand, San Leandro may meet SB 1383 procurement requirements through a combination of RNG and compost/mulch purchases. Additionally, jurisdictions must meet paper procurement requirements by procuring paper products containing at least 30% recycled content that are certified to be recyclable. StopWaste is working with member agencies to develop strategic partnerships, technical assistance, and training to assist jurisdictions in meeting procurement targets.

Recordkeeping and Reporting

Jurisdictions must maintain current records of SB 1383 implementation and compliance for annual reporting to CalRecycle. The City's Recycling Program staff is actively researching software tools to help meet the tracking, recordkeeping and reporting requirements of SB 1383. The cost associated with software license fees is anticipated to be between \$25,000 and \$30,000 annually. The City Council approved an appropriation of \$25,000 in the FY2021-2022 budget for software development.

If the City Council chooses to adopt the ORRO, a future Memorandum of Understanding (MOU) or other agreements may need to be finalized between StopWaste, the Alameda County Department of Environmental Health, and the City of San Leandro. There may also be other future MOUs that are needed to fully implement and enforce SB 1383.

Attachment 1 outlines the proposed shared responsibilities for implementing SB 1383.

Applicable General Plan Policies

- **GOAL OSC-7:** Promote recycling, water conservation, green building, and other programs which reduce greenhouse gas emissions and create a more sustainable environment.

Environmental Review

This Ordinance is adopted pursuant to CalRecycle's SB 1383 Regulations. The SB 1383 Regulations were the subject of a program environmental impact report (EIR) prepared by CalRecycle, and except for provisions that maintain the already established requirements of the WMA's Ordinance Requiring Actions to Reduce Landfilling of Recyclable and Organic Solid Wastes from Businesses, Multifamily Residences, and Self-Haulers (Ordinance No. 2012-1; also known as the Mandatory Recycling Ordinance), which currently apply in the City, the activities to be carried out under this Ordinance are entirely within the scope of the SB 1383 Regulations and that EIR. No mitigation measures identified in the EIR are applicable to WMA's enactment of this Ordinance. Moreover, none of the conditions requiring a subsequent or supplemental EIR, as described in Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, have occurred. The EIR therefore adequately analyzes any potential environmental effects of the Ordinance and no additional environmental review is required.

On a separate and independent basis, the Ordinance is exempt from CEQA pursuant to Section 15308, Class 8 of the CEQA Guidelines as an action that will not have a significant impact on the environment and as an action taken by a regulatory agency for the protection of the environment, specifically, for the protection of the climate. There are no unusual circumstances that would cause this Ordinance to have a significant effect on the environment.

Fiscal Impacts

The financial impact of implementing SB 1383, which is an unfunded State mandate, will be significant, although the full impact is not yet known. The City's Recycling Program and Public Works managerial staff have spent a substantial amount of time to date in the research and development of the program. Due to the involvement of various agencies, it is yet to be fully determined how much time will be required of City staff for the initial start-up, as well as the on-going annual implementation and reporting. Staff has engaged ACI to determine if any existing obligations contained in the current franchise agreement satisfy SB 1383 requirements and are in discussions about future contract adjustments that may be necessary. Preliminary projections indicate hauler costs would exceed \$700,00 annually and most likely require a rate payer adjustment to fund the program. The procurement requirement, at current market prices, would cost more than \$1,100,000.00 annually to purchase the required quantity of compost/mulch. City staff is working with StopWaste to find ways to minimize the financial impact.

San Leandro would see additional financial impacts by not adopting the ORRO and implementing SB 1383 regulations on its own. City Recycling staff, which is comprised of just one full-time staff person (and assisted by a part-time, 600-hour college intern position that is currently vacant), would be responsible for ensuring provision of service, contamination monitoring, education and outreach, food generator inspections and capacity planning without the resources and partnerships provided by StopWaste.

ATTACHMENT(S)

Attachment(s) to Staff Report

- Attachment 1 - Proposed Shared Responsibilities for Implementing SB 1383

Attachment(s) to Related Legislative File

- Ch 3-24 Organics Reduction and Recycling Proposed Ordinance

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