



City of Hermosa Beach

Information Item

DATE: Tuesday November 10, 2020
TO: City Council
FROM: Douglas Krauss, Environmental Programs Manager
SUBJECT: MANDATORY RECYCLING ORDINANCE

Executive Summary

City staff is working on an Ordinance to codify the various State recycling mandates that have been issued in recent years. This is being prompted by the recent release of model ordinance documents and the upcoming finalization of the regulatory text for SB1383, the Mandatory Organics Recycling law. SB1383 will require agencies to take steps to implement these regulations and be responsible for enforcement. This ordinance will incorporate all relevant mandatory recycling regulations and include enforcement options to ensure the City can achieve full compliance.

Background

Recent state legislation has made recycling mandatory for solid waste (Assembly Bill 341 of 2011) and organic waste (Assembly Bill 1826 of 2014, and Senate Bill 1383 of 2016). Implementation of programs to ensure compliance with these mandates is the responsibility of local agencies, as is enforcement. The City of Hermosa Beach, in partnership with its franchised waste hauler Athens Services (Athens), has implemented programs and services to help achieve these mandates. Implementation has included adopting new rates and service options, site visits to all affected customers, and comprehensive education and outreach efforts. Despite these measures, there are many customers that are not yet compliant with these mandates.

Staff is developing an Ordinance to codify these mandatory recycling requirements and make non-compliance by customers an infraction, per the City's municipal code. This would give the City an enforcement tool for these mandates to help ensure the City is not in violation of State regulations, as administered and enforced by the California Department of Resources Recycling and Recovery (CalRecycle). These mandates require local agencies have enforcement tools in place and CalRecycle has provided model ordinances to assist agencies in establishing enforcement guidelines.

Analysis:

Assembly Bill 341 (2011) mandated that commercial and multi-family customers implement solid waste recycling service. This regulation was phased in over a number of years with increasingly strict thresholds for compliance. Since July of 2012, every commercial and multi-family (five units or more) customer that generates 4 cubic yards or more of solid waste per week has been required to recycle.

Athens Services has been the City's franchised waste hauler since 2013. Through this franchise agreement, all customers are able to source-separate recyclables but Athens



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also utilizes a material recovery facility for commercial trash which sorts recyclables from the waste stream. For this reason, the City has been compliant with AB341 and has not needed to codify these regulations nor enforce it with customers.

AB 1826 (2014) required all commercial and multi-family properties that generate four cubic yards or more of solid waste per week to have organics recycling service before the end of 2019. In the Fall of 2019, the City authorized Athens Services to implement a new rate structure and service to allow all affected customers to have free organics recycling service options. Despite these efforts, the City was not able to ensure that all affected customers were compliant by the 2019 deadline. Consequently, in January 2020, the City received a “30-day Letter” from CalRecycle requesting a formal plan showing a strategy for compliance.

The City developed a formal plan and submitted it to CalRecycle in February 2020. This plan details a number of steps to help achieve full compliance with AB1826 by December 2020. These measures include: targeted outreach by Athens and City staff, formal notifications by the City to non-compliant customers, adoption of an Ordinance by the City making these mandates enforceable, and potentially mandatory customer enrollment in recycling services. Adoption of a mandatory recycling ordinance was strongly encouraged by CalRecycle in its communications with the City.

In addition, as part of the language of AB1826, CalRecycle had an option to lower the threshold for compliance for affected customers. In September 2020, CalRecycle announced that they would be exercising this option and lowered the compliance threshold for affected customers from 4 cubic yards of trash service per week to 2 cubic yards per week. Effective compliance with this lower threshold is not possible by the end of 2020 due in part to the challenges of the pandemic’s effect on businesses and the City’s inability to enforce mandatory recycling. The City is in discussion with CalRecycle about compliance options and the mutability of the timelines provided in the City’s Formal Plan.

SB1383 was passed in 2016 and, though its language has not been officially finalized, it has been the focus of numerous webinars, meetings and guidance documents provided by CalRecycle ever since. This law seeks to reduce the disposal of organic waste Statewide across all sectors. SB1383 will require local agencies to ensure almost all of its residential and commercial customers have organics recycling service. Among its many requirements, SB1383 will make waste haulers responsible for monitoring and proper transportation of materials, make regional agencies responsible for ensuring adequate material processing capacity, and make certain generators responsible for establishing edible food donation programs.

In September 2020, CalRecycle released the model ordinance language recommended for agencies to help achieve compliance with these organics recycling mandates. These documents were originally scheduled to be released in Spring of 2020 and were delayed due to the effects of the pandemic on operations at State and local agencies. The City’s Formal Plan provided to CalRecycle described how adoption of an ordinance encompassing AB1826 and SB1383 would be crucial to the City’s compliance strategy and enforcement abilities. City Staff has been drafting language to



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incorporate into this Ordinance and monitoring updates from CalRecycle in anticipation of release of the model documents.

The proposed Ordinance will include language that will guide the City in enforcing the mandates of SB1383 as well as memorializing the requirements of AB341 and AB1826. This will include comprehensive organic waste reduction measures including mandatory service for most customers, regular outreach and monitoring, engagement with food donation programs, a system for issuing exemptions, and more. This will include the mandates of AB827 as well, a requirement for certain retail establishments to provide recycling disposal options for customers on site.

Staff is targeting early 2021 to bring this new Ordinance for Council's approval. Per the proposed language of SB1383, local agencies will required to have programs in place to achieve compliance by January 2022 and begin enforcement by January 2024. The City could consider accelerating these compliance deadlines in its proposed ordinance to accomplish the following benefits:

Regulatory Flexibility: By establishing compliance deadlines in advance of State-mandated deadlines, the City will have the flexibility to test various compliance strategies to assess their success and help avoid the threat of punitive measures by the State. The City's failure to achieve full compliance with the mandates of AB1826 added further scrutiny to the City's programs including being required to develop a Formal Plan of compliance. Though it is worth noting that very few agencies achieved full compliance before the mandatory deadlines, a more timely approach towards compliance will allow the City some flexibility to develop a more localized strategy and work at its own pace. The goal of almost universal organics recycling service across all customer types is a political and logistical challenge that can benefit from additional time for outreach and program development.

Bolster Sustainability Goals: Accelerating the City's compliance will also continue Hermosa Beach's tradition of environmental leadership. SB1383 serves not only to reduce waste but has a primary goal of reducing the emissions that result from the disposal of organic waste. This mandate thus seeks to further two very important State and local environmental goals. An accelerated compliance schedule would also be perceived favorably by regulatory agencies.

An ambitious compliance timeline would accomplish both of the abovementioned goals and is reasonably feasible due to the City of Hermosa Beach's inherent geographical and programmatic conditions. Being a relatively small city aids in communication and outreach efforts. It also minimizes the logistical challenges of such a mandatory program. Assuming the City cannot achieve full compliance in a timely manner via outreach and education, the City may have to exercise the option of mandatory automatic enrollment for all affected customers. This would entail distributing containers to all non-compliant customers. Because of the relatively small number of



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customer citywide, this could be accomplished within a reasonable amount of time should it become necessary.

Additionally, a significant number of residential and commercial customers are already compliant, further improving efficiency of final compliance measures. The current franchise agreement includes language that would lend itself to this proposed compliance strategy but a franchise amendment would be necessary to ensure seamless coordination with these new programs. For example, currently residential customers pay a nominal fee for organics recycling (green cart) service. Potentially, this fee could be restructured or eliminated to further encourage participation. This franchise amendment could be drafted after approval of the ordinance to match its requirements and timelines.

Staff will bring the proposed Ordinance and discussion of compliance and timing options for Council's consideration in early 2021. This will include any new information the State provides regarding the program and feedback from staff's ongoing dialogue with CalRecycle staff.