



Staff Report

File #: REPORT 21-0304, Version: 1

Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of May 25, 2021

INTRODUCTION OF ORDINANCE 21-1431 OF THE CITY OF HERMOSA BEACH, CALIFORNIA, AMENDING VARIOUS SECTIONS OF CHAPTER 8.12 OF AND ADDING CHAPTER 8.14 TO THE HERMOSA BEACH MUNICIPAL CODE REGARDING SOLID WASTE (Environmental Programs Manager Doug Krauss)

Recommended Action:

Staff recommends City Council introduce Ordinance 21-1431 amending various sections of Chapter 8.12 and adding Chapter 8.14 of the Hermosa Beach Municipal Code regarding solid waste.

Executive Summary:

To achieve compliance with the State of California's mandatory recycling and organic waste reduction laws, staff recommends City Council adopt proposed Ordinance 21-1431 amending the Hermosa Beach Municipal Code to include mandatory recycling and make non-compliance by businesses and residents an infraction punishable by fines. The ordinance would provide an enforcement tool, as required by the California Department of Resources Recycling and Recovery (CalRecycle), to help achieve compliance with existing and upcoming recycling mandates.

Background:

Recent State legislation 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). As discussed below, the mandates aim to reduce waste, preserve landfill capacity, and, in the case of organic waste recycling, reduce greenhouse gas emissions. Implementation of programs to ensure compliance with the mandates is the responsibility of local agencies, as is enforcement. The City of Hermosa Beach, in partnership with its franchised waste hauler Arakelian Enterprises, Inc. (DBA Athens Services), implemented programs and services to help comply with the mandates. Implementation included adopting new rates and service options, site visits to affected customers, and comprehensive education and outreach efforts. Despite the proactive measures, many customers are not currently in full compliance with the mandates.

Adoption of the Ordinance would codify the mandatory recycling requirements and make non-compliance by customers an infraction, per the City of Hermosa Beach Municipal Code. The code change would give the City another tool to enforce the mandates and help ensure compliance with the legal requirements, as implemented and enforced by CalRecycle.

Analysis:

The City of Hermosa Beach has a long history of ambitious waste reduction programs, including banning polystyrene food containers in 2012 and straws, Mylar balloons, and many single-use plastics in 2019. Through the City's integrated solid waste management services agreement with Athens Services, all customers may source-separate recyclables and organic waste for diversion. Additionally, Athens Services utilizes a material recovery facility for commercial customers, ensuring all City customers are in compliance with the mandatory recycling requirements of AB 341.

AB 1826 requires all commercial and multi-family properties that generate two cubic yards or more of solid waste per week to have organics recycling service before the end of 2019. In fall of 2019, the City authorized Athens Services to implement a new rate structure and services to allow all Hermosa Beach customers the ability to recycle organic waste (**Attachment 1**). The new rate structure allowed commercial customers free organics recycling service and residential customers the same service for a nominal fee. Despite all efforts, the City was unable 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 Program Action Plan and submitted it to CalRecycle in January 2020. The plan detailed a number of measures to achieve full compliance with AB 1826 before December 2020 (**Attachment 2**). The proposed measures included: targeted outreach by Athens Services and City staff; formal notifications by the City to non-compliant customers; adoption of an Ordinance by the City making non-compliance with the mandates punishable by law; and the potential for mandatory enrollment in recycling services. Adoption of the Ordinance is seen as a crucial first step the compliance plan.

The proposed Ordinance 21-1431 would help to implement the prior mandates of AB 341 and AB 1826. It would also ensure compliance with recent regulations adopted by CalRecycle to implement SB 1383. The regulations reflect one of the most fundamental changes to solid waste management in the State since the adoption of AB 939 in 1989. To assist agencies in implementation of SB 1383, CalRecycle has prepared model ordinances for City use. The proposed Ordinance is based primarily on the model language, with the exception of additional language that explicitly references the prior mandates (AB 341 and AB 1826), which are not codified by the City. One significant option in the model language is a choice between Standard and Performance-based compliance strategies. The Standard compliance approach provides more flexibility for agencies to grant exemptions and implement programs as needed. Performance-based compliance requires guaranteed 90 percent participation by affected customers and, if compliance is not accomplished, the agency will be required to revert to the Standard compliance model. Considering the possibilities and after discussion with CalRecycle and industry experts, staff recommends the Standard compliance model. The only other variations in the proposed Ordinance versus the model language are the selection or omission of optional sections such as a procurement policy and model water efficient landscaping

language, which will be brought to Council separately in the near future.

The proposed Ordinance would aid the City in enforcing the various recycling mandates, especially those of SB 1383. As explained by CalRecycle staff during a presentation at the April 13, 2021 City Council meeting and in an Information Item provided in November 2020 (**Attachment 3**), the law expands upon AB 1826 by requiring essentially all customers to have organics service. SB 1383 details a number of measures that agencies and customers must implement to reduce organic waste. The measures include:

- Mandatory organic recycling service for all residential, multi-family and commercial customers, with a few exceptions;
- Enforcement by the City;
- Education and outreach to customers and, for commercial properties, education for staff and customers;
- Regular monitoring of containers for contamination and notification to violators;
- Placement of bins with separate compartments for trash, recyclables, and organic waste at certain businesses for customer use (per AB 827);
- Implementation of food donation programs by certain businesses that generate specific types and amounts of organic waste (i.e., grocery stores and schools);
- Procurement requirements for the City; and
- Annual reporting to CalRecycle on the program's success.

SB 1383 requires that mandatory organic service be in place by January 1, 2022. The regulations further require enforcement to begin January 1, 2024, but staff recommends enforcement beginning January 1, 2023. The earlier enforcement timeline would not only provide the City an effective tool to ensure compliance, but also accelerate compliance to align with the City's history of being a regional leader for environmental programs. Additionally, the City's existing organics program, in combination with its relatively small number of total non-compliant customers, allows for efficient strategies for implementation to bring the City to full compliance ahead of the schedules described in the SB 1383 regulations.

Below is a chart of relevant compliance goals and deadlines included in the proposed Ordinance:

Date	Customers Affected	Service/Program Required	Source Legislation
Effective immediately upon adoption of the ordinance	All commercial and multifamily solid waste customers that subscribe to 4 cubic yards or more of solid waste collection service per week.	Recycling Service for Recyclable Solid Waste	AB 341

Effective immediately upon adoption of the ordinance	Multi-family properties that subscribe to 4 cubic yards or more of solid waste collection per week	Organic Waste Collection Service	AB 1826
Effective immediately upon adoption of the ordinance	Businesses that generate 2 cubic yards or more of commercial solid waste per week	Organic Waste Collection Service	AB 1826
Effective immediately upon adoption of the ordinance	Businesses generating 4 cubic yards of solid waste per week or 8 cubic yards of organic waste per week that provide customer access to the business, excepting full-service restaurants	Provide recycling containers for mixed recyclables and organic waste and educational signage for customers, except in restrooms	AB 827
January 1, 2022	All organic waste generators (Commercial, multi-family and residential customers)	Organic Waste Collection Service	SB 1383

SB 1383 also requires the City to implement a procurement policy that mandates use of recycled-content paper and other organic waste procurement and reduction measures. This will be developed separately in consultation with a representative group of City staff to reflect the needs and practices of City departments and with the cooperation of Athens Services.

Staff consults with Athens Services on possible outreach opportunities and implementation strategies for SB 1383. Outreach strategies may include: site visits to every commercial customer; mailers to all customers; placing information on both the City's and Athens' webpages; and use of the City's social media. Outreach will be ongoing during the year and continue through subsequent years. Staff from the City and Athens Services will provide onsite training and education to customers as needed. The City may also assist businesses in purchasing the required three-compartment recycling containers (as detailed in AB 827) utilizing its annual beverage container block grant funds. Staff proposes a letter from the City be sent to all properties officially detailing the new mandates and timelines and describing enforcement and potential penalties. City staff, including code enforcement, will work closely with Athens Services to monitor and assess progress towards compliance and bring regular updates to City Council.

Staff recommends that the City exercise automatic roll-out of service to all affected customers. This would entail distribution of organic waste containers and automatic service enrollment for all non-compliant customers. For reference, currently only 30 percent of commercial customers and approximately 10 percent of multi-family customers are subscribed for organics service. Current residential participation in organics service is at approximately 25 percent. Without the enforcement ability provided by the mandatory recycling ordinance, the City is unlikely to compel customers to subscribe for service. Currently, organic waste service is free to all commercial and multi-family customers and is \$4.26 for residential customers for a 35-gallon cart. The 35-gallon green cart is the

smallest size available and is the container proposed for the automatic roll-out. The cart is appropriate both in consideration of cost to customers, but also minimizes any space concerns onsite while providing sufficient service volume for the majority of customers. Staff is currently working with Athens Services to explore feasibility and scheduling of the roll out. Athens Services ensures staff it will have the necessary inventory of containers and is designing new routes to ensure efficient service. The information will be communicated to customers in advance with a goal of final implementation of the roll out in fourth quarter of 2021. Athens Services will bring on additional staff to help with outreach and compliance monitoring.

Staff further recommends an official letter or notice be sent to all affected customers in advance of the year-end compliance deadline. Per the language proposed in the Ordinance, the City would be able to cite non-compliant customers beginning January 2023 and staff would spend calendar year 2022 coordinating with Athens Services on the program, monitoring participation and compliance, and educating customers.

Past Council Actions

Meeting Date	Description
March 26, 2013	Approve Integrated Waste Hauler Agreement with Arakelian Enterprises, Inc. (DBA Athens Services) for an 8-year term
September 10, 2019	Adoption and Implementation of an Organic Waste Recycling Program for Hermosa Beach Businesses and Residents
November 12, 2019	Adoption of Ordinance Banning Polystyrene Food Service Ware and Certain Polystyrene and Single-Use Plastic Products

General Plan Consistency:

This report and associated recommendations have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

Sustainability and Conservation Element

Goal 6. Hermosa Beach is a low or zero-waste community with convenient and effective options for recycling, composting, and diverting waste from landfills

Policies:

- **6.2 Food waste collection.** Ensure food waste collection is available and convenient for all residents, businesses and organizations.
- **6.10 Evaluate recycling and waste diversion opportunities.** Periodically evaluate and consider new opportunities to achieve greater waste diversion rates.

Fiscal Impact:

There is no direct fiscal impact to the City associated with the recommended action. Most implementation costs would be borne by the City's franchised waste hauler and customers.

Attachments:

1. Staff Report for Organics Service and Rates 2019
2. Formal Plan for CalRecycle
3. Information Item from November 2020
4. Draft Ordinance No. 21-1431

Respectfully Submitted by: Doug Krauss, Environmental Programs Manager

Noted for Fiscal Impact: Viki Copeland, Finance Director

Legal Review: Mike Jenkins, City Attorney

Approved: Suja Lowenthal, City Manager