



County of Sonoma

State of California

Date: March 15, 2022

Item Number: _____

Resolution Number: _____

4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Making Certain Findings and Ordering that Section 22-3 of the Sonoma County Code
Mandating Participation in Solid Waste Collection Service be Suspended Until Further Notice**

A. The County of Sonoma (“County”) is committed to protecting public health, safety, welfare, and the environment. To meet these goals, the County must promote the proper management of solid waste, recyclables, and organics. Under California Law, as embodied in the California Waste Management Act (the “Act”) (California Public Resources Code Sections 40000 *et seq.*), the State of California has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste management and disposal within their jurisdiction.

B. The State of California has found and declared that the amount of solid waste generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from land filling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the Act, directed the California Department of Resources Recycling and Recovery (“CalRecycle”) and all local agencies, to promote disposal site diversion and to maximize the use of feasible solid waste reduction, re-use, recycling, and composting options in order to reduce the amount of solid waste that is disposed of in disposal sites.

C. The Act, specifically section 40059 of the Public Resources Code,

specifically provides that “[n]otwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine.... the frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.” As such, whether to mandate participation in collection service is a decision vested exclusively with local governments, not CalRecycle.

D. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016 (“SB 1383”) requires CalRecycle to develop regulations to reduce the presence of organics in landfills as a means to reduce associated methane emissions. The regulations place requirements on multiple entities including counties, cities, local agencies, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of Statewide organic waste disposal reduction targets.

E. Whereas, CalRecycle has indicated through unpublished guidance letters to select stakeholders that the regulations are intended to require jurisdictions to impose mandatory subscription requirements; however, this guidance ignores the plain language of the regulations, including but not limited to:

(i) 14 CCR § 18988.3 (Self-haulers of Organic Waste), subsection (a), which provides: “Generators of organic waste may, in compliance with Section 18988.1 of this division, self-haul their own organic waste.”

(ii) 14 CCR § 18988.1 (Jurisdiction Approval of Haulers and Self-Haulers), subsection (b), which provides “If a jurisdiction allows generators subject to its authority to self-haul organic waste, it shall adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in Section 18988.3 of this article.”

(iii) 14 CCR § 18984.9 (Organic Waste Generator Requirements), which provides: “(a) Organic waste generators shall comply with applicable local

requirements adopted pursuant to this article for the collection and recovery of organic waste, by ***either***:

(1) Subscribing to and complying with the requirements of the organic waste collection service provided by their jurisdiction; ***or***

(2) Self-hauling organic waste in a manner that complies with the requirements of Article 7 of this chapter.” (Emphasis added.)

F. Whereas, CalRecycle’s own “model ordinance,” dated January 2021 and published on CalRecycle’s website, clearly indicates that jurisdictions have a choice not to impose mandatory service, providing model language as follows: “Single-Family Organic Waste Generators shall comply with the following (collection service) requirements *except Single-Family generators that meet the Self-Hauler requirements in Section 12 of this ordinance.*” (Emphasis added.) The guidance to jurisdictions with respect to this provision of the model ordinance specifically states: “Include ... the preceding sentence if the Jurisdiction allows Single-Family generators to self-haul materials they generate.” As such, an ordinance that allows self-haul in lieu of subscribing to collection service complies with CalRecycle’s model ordinance with respect to these concerns.

G. As further evidence that mandatory service is not required by the regulations, 14 CCR § 18984 provides that a jurisdiction “*may provide*” any combination of organic waste collection services specified in Sections 18984.1 (Three-container Service), 18984.2 (Two-Container Service, and 18984.3 (Unsegregated Single-Container Service). If the only compliance options allowed were these three curbside collection methods and not self-haul, the regulations could and should have been written to indicate that jurisdictions “*shall provide*” these collection services to all generators.

H. The County of Sonoma currently provides organic waste collection opportunities to all generators, both through the provision of collection service to those who elect to subscribe and by accepting self-haul deliveries of organic waste for recovery and processing at the Sonoma, Healdsburg, Guerneville and Annapolis transfer stations.

Thus, in Sonoma County it is not necessary to mandate participation in curbside collection service to achieve the purposes of SB 1383.

I. CalRecycle's SB 1383 regulations require jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of the regulations. On November 15, 2021, this Board adopted the required ordinance, which, amongst other provisions, mandates that all residential households and commercial businesses subscribe to a 3-container solid waste collection service, subject to limited exceptions.

J. Since the Board's adoption of the ordinance, codified as Chapter 22 of the Sonoma County Code, staff have learned that mandating participation in solid waste collection service as to all unincorporated areas that are not subject to State-defined waivers is both impractical and costly;

K. Staff have also found that similarly-situated counties, including our neighboring counties — Napa, Marin, and Mendocino — have elected not to mandate collection service;

L. Staff are recommending this Board suspend Section 22-3 of the Sonoma County Code (Mandatory Service) until such time as CalRecycle's regulations and guidance demonstrate unequivocally that all jurisdictions must impose mandatory service to achieve the purposes of SB 1383.

Now, Therefore, Be It Resolved:

1. *Verification of Recitals.* The foregoing recitals are true and correct and are hereby incorporated into and form a material part of this resolution.
2. *Declaration of Local Agency Powers.* Section 40059 of the Public Resources Code authorizes this Board to determine the means of collection and transportation and the nature, location, and extent of providing solid waste handling services in the County of Sonoma. In adopting SB 1383, the State Legislature did not affirmatively

or impliedly abrogate this Board's responsibility or discretion with respect to these essential matters of local concern.

3. *Suspension of Section 22-3 of the Sonoma County Code.* Effective immediately, Section 22-3 of the Sonoma County Code shall be suspended until such time as this Board finds and determines that CalRecycle's regulations are effective to require counties to mandate participation in collection service and that implementation of mandatory service is feasible in Sonoma County. This Board may also rescind or modify this Resolution for any other reason as may be determined by the Board to be in the public interest.

4. *Intent.* This Board intends through this action to suspend implementation and enforcement of Section 22-3 of the Sonoma County Code, which would otherwise require the owners or occupants of all single-family, multi-family and commercial premises to subscribe to weekly solid waste, recyclable materials, and organic waste collection services provided by an authorized county franchisee, unless otherwise exempted.

Supervisors:

Gorin:

Rabbitt:

Coursey:

Hopkins:

Gore:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.