

**CITY MANAGER'S REPORT
SEPTEMBER 13, 2021 CITY COUNCIL REGULAR MEETING**

ITEM 5.3

ITEM: PUBLIC HEARING (PUBLISHED NOTICE) TO CONSIDER FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING LATHROP MUNICIPAL CODE TITLE 8 "HEALTH & SAFETY", CHAPTER 8.16 "GARBAGE COLLECTION AND DISPOSAL" TO INCLUDE "MANDATORY ORGANIC WASTE DISPOSAL REDUCTION" TO ENSURE STATE REGULATION COMPLIANCE FOR RESIDENTIAL AND COMMERCIAL GENERATORS

RECOMMENDATION: City Council to Consider the Following:

- 1. Hold a Public Hearing; and**
 - 2. First Reading and Introduction of an Ordinance Amending the Lathrop Municipal Code Title 8 "Health and Safety", Chapter 8.16 Entitled, "Garbage and Collection Disposal", Section 8.16.010 Entitled "Definitions" and Adding a New Section 8.16.290 Entitled "Mandatory Organics Waste Disposal Reduction" and Section 8.16.300 Entitled "Violations"**
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SUMMARY:

In September 2016, Governor Brown Jr. set methane emissions reduction targets for California (SB 1383 Lara, Chapter 395, Statutes of 2016) in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP). The targets must:

- Reduce organic waste disposal 50% by 2020 and 75% by 2025.
- Increase the recovery of disposed surplus food by 20% by 2025.

Beginning January 1, 2022, all jurisdictions will need to provide organic waste collection services to all residents and businesses and recycle these organic materials in compliance with Senate Bill ("SB") 1383 Short-Lived Climate Pollutant regulations. The City of Lathrop already utilizes the three (3) bin system with weekly pick-up provided by the contracted hauler.

The proposed Ordinance would amend Lathrop Municipal Code to add definitions to Section 8.16.010 entitled "Definitions", add Section 8.16.290 entitled "Mandatory Organic Waste Disposal Reduction" in compliance with Senate Bill ("SB") 1383 and amend Section 8.16.300 entitled "Violations" to provide an enforcement mechanism to ensure that single family, multifamily, and commercial business generators adhere to the revised Municipal Code.

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"MANDATORY ORGANIC WASTE DISPOSAL REDUCTION"**

Per State regulations, the amendment would require that single family, multifamily, and commercial business generators properly sort their recyclables, organic waste, and trash. The proposed amendment would allow the City to ensure compliance for noncompliant entities, while meeting state regulations.

BACKGROUND:

SB 1383 requires that all jurisdictions adopt and enforce a Mandatory Organic Waste Disposal Reduction Ordinance that must go into effect by January, 2022.

To ensure compliance with SB 1383, staff proposes the following Lathrop Municipal Code amendments:

1. Section 8.16.010 Added "Definitions":

"Commercial Generator" means multifamily residential or a Commercial Business, which generates Solid Waste, Recyclables, Organic Waste or Compostable Materials and may be amended from time to time, which is incorporated herein by reference.

"Contaminated Container" means a container, regardless of color, that contains incorrect materials or prohibited contaminants and may be amended from time to time, which is incorporated herein by reference.

"Green Waste" refers to material that can be broken down into, or otherwise become part of, usable compost in a safe and timely manner (including food scraps, food-soiled paper, and compostable plastics) and may be amended from time to time, which is incorporated herein by reference.

"Organic Waste" refers to waste containing material originated from living organisms and their metabolic waste products (including but not limited to food, green waste, landscape waste, organic textiles and carpets, lumber, and paper products) and may be amended from time to time, which is incorporated herein by reference.

"Residential Generator" means single family residential which generates Solid Waste, Recyclables, Organic Waste or Compostable Materials and may be amended from time to time, which is incorporated herein by reference.

"Source Separate" means the process of removing Recyclable Materials, Green Waste and Organics Waste from Solid Waste, prior to collection, into separate containers that are separately designated for Recyclables, Green Waste or Solid Waste and may be amended from time to time, which is incorporated herein by reference.

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"MANDATORY ORGANIC WASTE DISPOSAL REDUCTION"**

2. Add a new Section 8.16.290 entitled "Mandatory Organic Waste Disposal Reduction" to read as follows:

Single family, multifamily and commercial business generators shall adhere to the Mandatory Organic Waste Disposal Reduction and be subject to the following regulations:

- A. All generators must subscribe to a basic level of recycling service that includes at a minimum, the collection of recyclable materials and green waste as stated in Chapter 8.16.080.
- B. All generators will source separate recyclable materials and green waste from solid waste; using the three (3) bin system provided by the contractor.
- C. Contractor shall provide educational information to all generators about Organic Waste Recovery requirements and proper source separating into the three (3) bin system.
- D. Commercial generators must provide adequate instructions to employees, contractors and volunteers and post signs containing information on proper source separation.
- E. Contamination monitoring is primarily done by the contractor. For generators with a contaminated container, contractor will issue contamination notices; multiple notices will trigger a more detailed inspection by an auditor or penalty.
 1. If the contractor first finds a contaminated container, they shall notify the generator by written notice attached to the contaminated container and shall provide a copy of the notice to the City.
 2. If the contractor finds a contaminated container a second time, they shall notify the generator by a written "Second Notice" attached to the contaminated container and shall provide a copy of this "Second Notice" to the City for possible follow up and enforcement.
 3. The contractor may refuse to empty the container if contractor finds a contaminated a third time, subject to California Code of Regulations Title 14, Section 17331, or if determined by the City face potential penalties. If the container is not emptied, the contractor must leave a tag and send a written notice to the generator, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a contractor may not refuse on this basis to empty containers from multifamily or commercial properties with multiple tenants and joint account collection service.

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"MANDATORY ORGANIC WASTE DISPOSAL REDUCTION"**

3. Add new Section 8.16.300 entitled "Violations-Penalty" to read as follows:

Violation of any of the provisions of this chapter shall be an infraction punishable by a fine of not more than five hundred dollars (\$500.00).

REASON FOR RECOMMENDATION:

- A. Beginning January 1, 2022, all jurisdictions will need to provide organic waste collection services to all residents and businesses and recycle these organic materials in compliance with Senate Bill ("SB") 1383 Short-Lived Climate Pollutant regulations.
- B. This proposed Ordinance intends to promote recycling and diversion of solid waste from landfill by requiring businesses, non-residential properties, and commercial buildings to source separate recyclable materials from all other solid waste for recycling and diversion from landfill and provide for the collection of recyclable materials.
- C. Comply with state recycling law, the California Integrated Waste Management Act of 1989 (also known as AB 939), and the Short-lived Climate Pollutant Reduction Act of 2016 (also known as SB 1383).
- D. Provide an enforcement mechanism to ensure that single family, multifamily, and commercial business generators adhere to the Ordinance.

This proposed Ordinance is intended to adhere to the Short-lived Climate Pollutant Reduction Act of 2016 (also known as SB 1383).

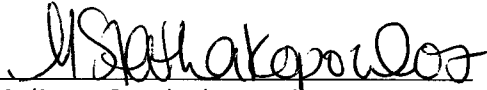
FISCAL IMPACT: None

ATTACHMENTS:

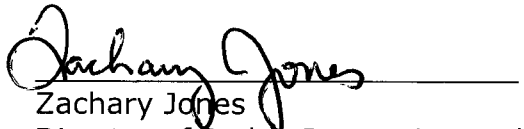
- A. An Ordinance of the City Council of the City of Lathrop Amending the Lathrop Municipal Code Chapter 8.16 entitled "Garbage Collection and Disposal", Section 8.16.010 Entitled "Definitions" and Adding a New Section 8.16.290 Entitled "Mandatory Organic Waste Disposal Reduction" and Section 8.16.300 Entitled "Violations"

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"MANDATORY ORGANIC WASTE DISPOSAL REDUCTION"**

APPROVALS:


Melissa Stathakopoulos
Parks, Recreation and
Maintenance Services

8.25.21
Date


Zachary Jones
Director of Parks, Recreation and
Maintenance Services


8.5.2021
Date


Mark Meissner
Director of Community Development


8/23/2021
Date


Michael King
Director of Public Works

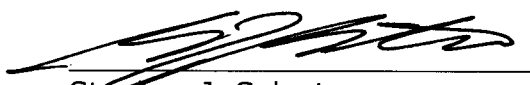
8.16.2021
Date


Cari James
Finance and Administrative Services
Director

8/17/2021
Date


Salvador Navarrete
City Attorney

8-16-2021
Date


Stephen J. Salvatore
City Manager

8.26.21
Date

ORDINANCE NO. 21-

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP AMENDING THE LATHROP MUNICIPAL CODE TITLE 8 "HEALTH AND SAFETY", CHAPTER 8.16 ENTITLED "GARBAGE COLLECTION AND DISPOSAL", SECTION 8.16.010 ENTITLED "DEFINITIONS" AND ADDING A NEW SECTION 8.16.290 ENTITLED "MANDATORY ORGANIC WASTE DISPOSAL REDUCTION" AND SECTION 8.16.300 ENTITLED "VIOLATIONS"

WHEREAS, the City of Lathrop City Council held a duly noticed public hearing at a regular meeting on September 13, 2021 to review and consider this ordinance; and

WHEREAS, the proposed municipal code text amendment is citywide and affects all applicable properties in the City; and

WHEREAS, it is appropriate to amend section 8.16.010 to include "Definitions" and add section 8.16.290 to include "Mandatory Organic Waste Disposal Reduction" to incorporate the requirements of SB 1383 and appropriate to add section 8.16.300 entitled "Violations" to include an enforcement mechanism that would establish fines for violations; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8.16 of the Lathrop Municipal Code entitled "Garbage Collection and Disposal" is amended as follows:

A. Section 8.16.010 entitled "Definitions" is amended to add the following to be codified in alphabetical order with existing definitions:

"Commercial Generator" means multifamily residential or a Commercial Business, which generates Solid Waste, Recyclables, Organic Waste or Compostable Materials and may be amended from time to time, which is incorporated herein by reference.

"Contaminated Container" means a container, regardless of color, that contains incorrect materials or prohibited contaminants and may be amended from time to time, which is incorporated herein by reference.

"Green Waste" refers to material that can be broken down into, or otherwise become part of, usable compost in a safe and timely manner (including food scraps, food-soiled paper, and compostable plastics) and may be amended from time to time, which is incorporated herein by reference.

"Organic Waste" refers to waste containing material originated from living organisms

and their metabolic waste products (including but not limited to food, green waste, landscape waste, organic textiles and carpets, lumber, and paper products) and may be amended from time to time, which is incorporated herein by reference.

“Residential Generator” means single family residential which generates Solid Waste, Recyclables, Organic Waste or Compostable Materials and may be amended from time to time, which is incorporated herein by reference.

“Source Separate” means the process of removing Recyclable Materials, Green Waste and Organics Waste from Solid Waste, prior to collection, into separate containers that are separately designated for Recyclables, Green Waste or Solid Waste and may be amended from time to time, which is incorporated herein by reference.

B. A new Section 8.16.290 entitled “Mandatory Organics Waste Disposal Reduction” is added to read as follows:

Single family, multifamily and commercial business Generators shall adhere to the Mandatory Organic Waste Disposal Reduction and be subject to the following regulations:

- A. Residential and Commercial Generators must subscribe to a basic level of recycling service that includes at a minimum, the collection of recyclable materials and green waste as stated in Chapter 8.16.080.
- B. Residential and Commercial Generators will Source Separate recyclable materials, Green Waste and Organic Waste from solid waste; using the three (3) bin system provided by the contractor.
- C. Contractor shall provide educational information to Residential and Commercial Generators about Organic Waste recovery requirements and the proper way to Source Separate into the three (3) bin system.
- D. Commercial Generators must provide adequate instructions to employees, contractors and volunteers; and post signs containing information on the proper way to Source Separate.
- E. Contamination monitoring is primarily done by the contractor. For generators with a Contaminated Container, contractor will issue contamination notices; multiple notices will trigger a more detailed inspection by an auditor or penalty.
 1. If the contractor first finds a Contaminated Container, they shall notify the Generator by written notice attached to the Contaminated Container and shall provide a copy of the notice to the City.
 2. If the contractor finds a Contaminated Container a second time, they shall notify the generator by a written “Second Notice” attached to the Contaminated Container and shall provide a copy of this “Second

Notice" to the City for possible follow up and enforcement.

3. The contractor may refuse to empty the container if contractor finds a Contaminated Container a third time. Subject to California Code of Regulations Title 14, Section 17331, or if determined by the City, the Generator may face potential penalties. If the container is not emptied, the contractor must leave a tag and send a written notice to the generator, identifying the incorrect materials and describing what action must be taken for the materials to be collected; provided, however, that a contractor may not refuse on this basis to empty containers from multifamily or commercial properties with multiple tenants and joint account collection service.

C. Section 8.16.300 entitled "Violations" is added to read as follows:

Violation of any of the provisions of this chapter shall be an infraction punishable by a fine of not more than five hundred dollars (\$500.00).

Section 2. This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Severability. If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section 4. Effective Date. This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 5. Publication. The City Clerk shall certify to the adoption of this ordinance and shall publish a summary thereof and post a certified copy of the full ordinance in the office of the City Clerk at least five days prior to the adoption of the proposed ordinance; and within fifteen days after adoption, the City Clerk shall publish a summary of the ordinance with the names of the members of the City of Lathrop City Council voting for and against the same.

THIS ORDINANCE was regularly introduced at a meeting of the City Council of the City of Lathrop on the 13th day of September, and was PASSED AND ADOPTED at a regular meeting of the City Council of the City of Lathrop on _____ day of _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SONNY DHALIWAL, MAYOR

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

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