



# Visalia City Council

Visalia City Council  
707 W. Acequia  
Visalia, CA 93291

## Staff Report

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**File #:** 22-0175

**Agenda Date:** 9/6/2022

**Agenda #:** 1.

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### Agenda Item Wording:

First reading of Ordinance 2022-07 of proposed additions and revisions of Visalia Municipal Code chapter 8.28, Solid Waste Collection and Disposal. Additions incorporate recent Senate Bill (SB) 1383 regulations related to edible food recovery.

**Deadline for Action:** 9/6/2022

**Submitting Department:** Public Works

### Contact Name and Phone Number:

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### Department Recommendation:

Staff recommends that Council adopt the updated and revised Chapter 8.28 Solid Waste Collection and Disposal to bring the code up to date with current state regulations required in SB 1383.

### Background Discussion:

City staff has been working to ensure the City is in compliance with the regulations set forth in Senate Bill (SB) 1383. Although the new regulations are challenging to many jurisdictions, City staff has worked closely with California's Department of Resources Recycling and Recovery (CalRecycle) and the City Attorney's Office to update Chapter 8.28 of the City's Municipal Code, *Solid Waste Collection and Disposal*. This work was to enable the City to have enforceable ordinances in place for the regulations that CalRecycle has required.

The purpose of SB 1383 is to reduce the amount of organic waste that makes its way to landfills. When buried in landfills, organic wastes (including paper, cardboard, food scraps, food soiled paper, yard trimmings, and other organic-based wastes) emit 20% of the state's methane, a climate super pollutant 84 times more potent than carbon dioxide. This organic waste makes up half of what Californians send to the landfill and reducing that can have a direct impact to our climate, especially in the San Joaquin Valley.

The final rulemaking for SB 1383 was completed by CalRecycle on November 3, 2020, with the final text of the regulations published in February 2021. Fortunately for the City of Visalia, solid waste programs and policies already in place contribute to the community being well on the way towards compliance with SB 1383. In June of 2018, City Council adopted City Ordinance 2018-03 which revised much of the Solid Waste Ordinances, and also adopted mandatory organics waste collection, a key component of SB 1383. In April of 2022, Council adopted Ordinance 2022-05 which updated the mandatory recycling sections to the more stringent thresholds set forth by CalRecycle. However, there are two other components of SB 1383 that CalRecycle has identified and prioritized

for the City to address. The sections that CalRecycle has identified for the City to address are as follows:

- Requirements for Commercial Edible Food Generators (Section 9 in Model Ordinance)
- Requirements for Food Recovery Organizations, Services and Jurisdictions (Section 10 in Model Ordinance)

To aid this effort, the City has the benefit of a model ordinance developed by CalRecycle (included as attachment) which includes language from the SB 1383 regulations highlighted for jurisdictions, provided to ensure ordinance revisions conform to the regulations. The major changes recommended by staff utilize language directly from the model ordinance.

As an important side note, even though CalRecycle has identified these components to be addressed with enforceable ordinances, they have also communicated to the City that the Procurement component of SB 1383 must be addressed. Even though the City has a Procurement policy that closely conforms to CalRecycle's model, staff recognizes that there are operational changes and small edits to the policy that still need to be done to comply with the new regulations.

#### Ordinance Update Focus

The update to Chapter 8.28 of the City ordinance is focused on revisions and additions to SB 1383 only. New sections added as required, reflect language provided by CalRecycle in the model ordinance sections above with minor modifications as needed to individualize the regulations to the City of Visalia.

In addition, updating the City's Municipal Code incorporates some necessary definitions of SB 1383 language to be added to section 8.28.020 *Definitions*.

With the shortened time available to amend Chapter 8.28 to bring it into compliance with SB 1383, staff is recommending the approach of adding sections to the existing chapter for Solid Waste Collection and Disposal instead of creating a new chapter altogether. Because the regulations associated with SB 1383 impact many waste program policies within the City, and since the enforcement of these regulations is referenced to the enforcement section within the chapter, it is a less weighty task of adding them to the existing chapter.

#### Enforcement

Most changes required by SB 1383 are highly prescriptive and offer little room for customization by jurisdictions. It is important to note that the enforcement process for violations of SB 1383 regulations will be required by all jurisdictions beginning in January 2024. Prior to that date, jurisdictions can undertake their own process, or focus on an education only approach.

SB 1383 specifies the penalties and steps for enforcement of violations related to organic wastes. These penalties are a range, with the minimum and maximum penalties included here:

- First Violation - \$50.00 - \$100.00
- Second Violation - \$100.00 - 200.00
- Third Violation - \$250.00 - \$500.00

Currently, the City's Section of Chapter 8.28 that references enforcement is already in compliance and has a similar truncated process for violations. The current City Ordinance regarding enforcement presently reads as follows:

*B. Any person convicted of any infraction of this chapter shall be punished by:*

- 1. A fine not exceeding fifty dollars (\$50.00) for a first violation;*
- 2. A fine not exceeding one hundred dollars (\$100.00) for the second violation of this chapter within one year; and*
- 3. A fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of this chapter within one year. Each day a violation continues shall be regarded as a new and separate offense.*

To streamline all sections within Chapter 8.28, this section is referenced when pointing to enforcement to save repetitiveness within the Code. It is referenced in the same way in the sections listed in this update. It is important to note that the Solid Waste enforcement policy issues a warning to give the resident/manager/owner an attempt to correct the violation before fines are administered.

#### Education Period for Non-Compliance

The SB 1383 regulations give jurisdictions the option to conduct a two-year education period from January 1, 2022 - December 31, 2023. This period would include all the actions the jurisdiction is required to take, however, when a customer is not in compliance, the jurisdiction would only provide educational materials to inform them of the requirement. Staff recommends this approach for the new updates included in this update to the Ordinance, but not to other SB 1383 related items like contamination of organic waste, since the City has had organics service since 2014 when food scraps were initially permitted in our green waste residential receptacles.

Even though CalRecycle applies a "Good Faith Effort" when determining a jurisdiction's compliance with the SB 1383 requirements, it is important to note that there are repercussions if the City does not comply. If CalRecycle determines that an ordinance by a jurisdiction is inconsistent or does not meet the requirements of the regulations, CalRecycle will notify the jurisdiction and provide an explanation of the deficiencies. The jurisdiction then has 180 calendar days to correct. If CalRecycle finds a jurisdiction in violation of the regulations beyond the correction period, there may be penalties. These penalties can range from \$500 - \$10,000 per day dependent on the type of violation.

#### **Fiscal Impact:**

None

#### **Prior Council Action:**

June 18, 2018 - Adoption of Ordinance 2018-03. This revised Visalia Municipal Code Section 8.28 to comply with State Assembly Bills AB341 and AB1826 to the requirements at that time.

April 4, 2022 - Adoption of Ordinance 2022-05. This revised the recycling requirements of who must subscribe to a higher standard threshold.

#### **Other:**

N/A

#### **Alternatives:**

Alternative is to not approve and adopt Ordinance 2022-07 and the associated updates and revisions

to the Visalia Municipal Code chapter 8/.28, Solid Waste Collection and Disposal. This may require enforcement action by CalRecycle that may include fines, as described above.

**Recommended Motion (and Alternative Motions if expected):**

I move to approve and adopt Ordinance 2022-07 and the associated updates and revisions to the Visalia Municipal Code chapter 8.28, Solid Waste Collection and Disposal.

**Environmental Assessment Status:**

N/A

**CEQA Review:**

N/A

**Attachments:**

Draft Ordinance 2022-07  
Chapter 8-28 Draft Revision  
Ordinance 2018-03 Adoption  
Ordinance 2022-05 Adoption  
CalRecycle Model Ordinance