



Legislation Details (With Text)

**File #:** 21-791      **Version:** 1      **Name:**  
**Type:** Consent Calendar      **Status:** Agenda Ready  
**File created:** 5/20/2021      **In control:** City Council and Authorities Concurrent  
**On agenda:** 11/16/2021      **Final action:** 11/16/2021  
**Title:** Waive First Reading and take Action on Introduction of an Ordinance to add Chapter 8.26, Entitled Edible Food Recovery, to Implement Edible Food Recovery Programs and Require Certain Businesses to Arrange for the Donation of Edible Food That Would Otherwise Go to Waste

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Ordinance No. 2035 (Introduction)

| Date       | Ver. | Action By                               | Action   | Result |
|------------|------|---|----------|--------|
| 11/16/2021 | 1    | City Council and Authorities Concurrent | Approved |        |

**REPORT TO COUNCIL**

**SUBJECT**

Waive First Reading and take Action on Introduction of an Ordinance to add Chapter 8.26, Entitled Edible Food Recovery, to Implement Edible Food Recovery Programs and Require Certain Businesses to Arrange for the Donation of Edible Food That Would Otherwise Go to Waste

**COUNCIL PILLAR**

Promote Sustainability and Environmental Protection

**BACKGROUND**

Following the adoption of Senate Bill (SB) 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, the California Department of Resources Recycling and Recovery (CalRecycle) developed regulations to reduce organics in landfills as a source of methane. SB 1383 contains requirements for both organic waste and edible food recovery. The City has already adopted new solid waste polices that deal with organic waste. The new program outlined in this report deals with edible food recovery from certain businesses. SB 1383 defines edible food as food intended for human consumption that meets the food safety requirements of the California Retail Food Code. SB 1383 requires each jurisdiction in California to:

- Implement an edible food recovery program for certain businesses that will feed hungry people
- Create new green collar jobs
- Strengthen relationships between food donors and food recovery organizations
- Help create sustainable funding for food recovery organizations
- Build more resilient communities

The new regulations require jurisdictions to adopt ordinances and implement programs that will require certain businesses to recover and donate edible food by January 1, 2022.

## **DISCUSSION**

The Santa Clara County Recycling and Waste Reduction Commission (RWRC) entered into an agreement with Joint Venture Silicon Valley (JVSV) to develop and manage a countywide edible food recovery program. JVSV has brought together a Food Recovery Steering Committee to strategize implementation procedures; create education and outreach; develop a countywide ordinance; and make recommendations on future inspection and enforcement processes. Representatives from the following groups have participated in subcommittees that have provided input on the ordinance at different stages and have expressed unanimous support for a centrally managed, countywide program:

- Technical Advisory Committee (TAC) representatives to the RWRC (including City of Santa Clara staff)
- Santa Clara County Departments of Environmental Health, Recycling and Waste Reduction, and Social Services
- Silicon Valley Food Recovery Council
- Second Harvest of Silicon Valley
- Loaves and Fishes
- Martha's Kitchen
- California Restaurant Association
- Private citizens
- Stanford Healthcare
- Republic Services
- Waste Connections

### **Standardization and Flexibility**

There is a consensus from all entities that have provided input on the ordinance to have uniform requirements throughout Santa Clara County. Uniform requirements will make it easier for business with facilities in multiple cities to comply. Food recovery organizations prefer standardized requirements because they do not normally operate or report on a city-by-city basis. Uniform record keeping and reporting will support countywide capacity planning that is required by SB 1383. The proposed ordinance developed by the Food Prevention Steering Committee will be adopted by each jurisdiction in the county. Additionally, the proposed ordinance has been developed with flexible language that will enable future decisions to be made on items that are not fully developed at this time (i.e., enforcement, funding, and Memorandum of Understanding).

### **Generator Requirements**

Edible food generators covered under these requirements will have to arrange food recovery through a contract or written agreement with food recovery organizations or services that will collect or accept self-hauled, edible food for food recovery. Tier One commercial edible food generators listed below, will be required to donate their edible food starting January 1, 2022.

- wholesale food vendors
- food service providers and distributors
- grocery stores over 10,000 sq. ft.
- supermarkets

Tier Two generators listed below will be required to donate their edible food starting January 1, 2024.

- restaurants over 5,000 sq. ft.
- hotels with on-site food facilities/200+ rooms
- local education agencies with on-site food facilities
- large venues/events
- health facilities with at least 100 beds and on-site food facilities

#### Food Recovery Services and Organization Requirements

Food recovery services and organizations will be required to track and report the following information to jurisdictions:

- commercial edible food generator contact information
- quantity in pounds collected and transported

#### Jurisdiction Requirements

- assess the capacity of existing edible food recovery
- increase edible food recovery capacity if needed
- educate commercial edible food generators of requirements
- monitor/inspect commercial edible food generator compliance and take enforcement as necessary

JVSV has already identified the existing capacity for food recovery and there is a countywide effort to expand capacity. Education of the commercial edible food generators will also be done on a countywide basis through JVSV. These efforts have been funded by the Solid Waste Planning Fee (SWPF) of \$0.78 per ton that is placed on every ton of waste that is disposed in a landfill. The statewide efforts to reduce organics in landfills will lead to reduced disposal tonnage, which could eventually necessitate jurisdictions to increase the SWPF or develop new sources of funding.

The commercial edible food generator inspection and enforcement component will fall to each individual jurisdiction. An inspection and enforcement plan has not yet been developed, but the cost will likely need to be incorporated into future solid waste rate increases. It is not known at this time if the inspections will be contracted out or if an additional position will need to be added to the Department of Public Works code enforcement efforts.

The program will also develop logistics and infrastructure that are necessary to collect and distribute edible food to people in need. The edible food recovery and distribution program will reduce the amount of methane producing organics going into landfills. SB 1383 requires the City to pass an ordinance that lays out and enables the enforcement of the edible food requirements.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(2) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

#### **FISCAL IMPACT**

There was no fiscal impact associated with the development of this report. As discussed above, each jurisdiction will be responsible for the commercial edible food generator inspection and enforcement component of the program. An inspection and enforcement plan has not yet been developed, but the cost will likely need to be incorporated into future solid waste rate increases.

## **COORDINATION**

This report was coordinated with the City Attorney's Office, and City Clerk's Office.

## **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

## **RECOMMENDATION**

Waive First Reading and Approve the Introduction of an Ordinance to add Chapter 8.26, entitled Edible Food Recovery, to Implement Edible Food Recovery Programs and Require Certain Businesses to Arrange for the Donation of Edible Food That Would Otherwise Go to Waste.

Reviewed by: Craig Mobeck, Director of Public Works

Approved by: Deanna J. Santana, City Manager

## **ATTACHMENTS**

1. Ordinance