

**Project title:** Adopt Ordinance Relating to Compost Procurement Requirements

## City Council Agenda Item Cover Sheet

**Council Bill #**

CB 2211 - 50

**Agenda dates requested:**

11/16/2022 – 1<sup>st</sup> Reading

11/30/2022 – 2<sup>nd</sup> Reading

12/7/2022 – 3<sup>rd</sup> Reading

Briefing X

Proposed action

Consent

Action

Ordinance X

Public hearing

Yes X No

**Budget amendment:**

Yes X No

**PowerPoint presentation:**

Yes X No

**Attachments:**

Ordinance

**Department(s) involved:**

Procurement

**Contact person:**

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**Initialed by:**

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Department head

Administration

Council President

**Consideration:**

**Project:** Ordinance Relating to Compost Procurement Requirements

**Partner/Supplier:** N/A

**Location:** N/A

**Preceding action:** N/A

**Fund:** N/A

**Fiscal summary statement:**

No budget impact.

**Project summary statement:**

In March 2022, the Engrossed Second Substitute House Bill (ESSHB) 1799 was passed by the Washington state legislature and signed by the Governor. Section 701 of ESSHB 1799, now codified at RCW 43.19A.150, requires cities such as the City of Everett to “adopt a compost procurement ordinance to implement RCW 43.19A.120.” RCW 43.19A.120 states that “When planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.” The purpose of the Ordinance relating to compost procurement requirements is to conform to state law regarding compost procurement and must be adopted no later than January 1, 2023.

The proposed Ordinance provides, to the extent required by RCW 43.19A.150(3), that the City shall plan for the use of compost in the following categories:

- (a) Landscaping projects;
- (b) Construction and postconstruction soil amendments;
- (c) Applications to prevent erosion, filter stormwater runoff, promote vegetation growth, or improve the stability and longevity of roadways; and
- (d) Low-impact development and green infrastructure to filter pollutants or keep water on-site, or both.

This plan will be re-assessed each December 31st of even-numbered years, beginning in 2024 and thereafter as part of the reporting obligations in Section 4.

**Recommendation (exact action requested of Council):**

Adopt an Ordinance relating to compost procurement requirements.

ORDINANCE NO. \_\_\_\_\_

**An ORDINANCE relating to compost procurement requirements**

**WHEREAS,**

- A.** In March 2022, ESSHB 1799 was passed by the Washington state legislature passed and signed by the Governor. The new statute states:

The legislature finds that landfills are a significant source of emissions of methane, a potent greenhouse gas. Among other economic and environmental benefits, the diversion of organic materials to productive uses will reduce methane emissions.

In order to reduce methane emissions associated with organic materials, the legislature finds that it will be beneficial to improve a variety of aspects of how organic materials and organic material wastes are reduced, managed, incentivized, and regulated under state law. Therefore, it is the intent of the legislature to support the diversion of organic materials from landfills through a variety of interventions to support productive uses of organic material wastes, including:

...

(h) Encouraging cities and counties to procure more of the compost and finished products created from their organic material wastes in order to support the economic viability of processes to turn organic materials into finished products and increasing the likelihood that composting and other responsible organic material management options are economically viable.

- B.** Section 701 of ESSHB 1799, now codified at RCW 43.19A.150, requires cities such as the City of Everett to “adopt a compost procurement ordinance to implement RCW 43.19A.120.”
- C.** RCW 43.19A.120 states that “When planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.”
- D.** The purpose of this ordinance is to conform to state law regarding compost procurement.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** When planning government-funded projects or soliciting and reviewing bids for such projects, the City shall consider whether compost products can be utilized in the project. If compost products can be utilized in the project, the City shall use compost products to the extent required by law, including, without limitation, RCW 43.19A.120(2).

**Section 2.** To the extent required by RCW 43.19A.150(3), the City shall plan for the use of compost in the following categories:

- (a) Landscaping projects;
- (b) Construction and postconstruction soil amendments;
- (c) Applications to prevent erosion, filter stormwater runoff, promote vegetation growth, or improve the stability and longevity of roadways; and
- (d) Low-impact development and green infrastructure to filter pollutants or keep water on-site, or both.

This plan will be re-assessed each December 31st of even-numbered years, beginning in 2024 and thereafter as part of the reporting obligations in Section 4.

**Section 3.** To the extent required by RCW 43.19A.150(4), the City will develop strategies to inform residents about the value of compost and how the City uses compost in its operations.

**Section 4.** To the extent required by RCW 43.19A.150(5), by December 31, 2024, and each December 31st of even-numbered years thereafter, the City shall prepare a report for the Department of Ecology covering the previous year's compost procurement activities, including the following information:

- (a) Total tons of organic material diverted each year;
- (b) The volume and cost of compost purchased each year; and
- (c) The source(s) of the compost purchased.

**Section 5.** To the extent required by RCW 43.19A.150(6), the City shall give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards comparable to standards adopted by the Department of Transportation or adopted by rule by the Department of Ecology.

**Section 6.** In accordance with RCW 39.30.040(1), the City may allow for the preferential purchase of compost to meet the requirements of RCW 43.19A.120.

**Section 7.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 8.** The City Council hereby declares that should any section, paragraph, sentence, clause, or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 9.** The enactment of this Ordinance shall not affect any case, proceeding, appeal, or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 10.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance

is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees, or agents.

\_\_\_\_\_  
Cassie Franklin, Mayor

ATTEST:

\_\_\_\_\_  
Marista Jorve, City Clerk

PASSED: \_\_\_\_\_

VALID: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

# 2022 Organics Management Law

## Focus on Compost Procurement Ordinances and Reporting

### Overview

Methane is a greenhouse gas at least 75 times more potent than carbon dioxide over 20 years. The primary goal of the [2022 Organics Management Law](#) is to reduce the emissions of methane created when organic materials, like food and yard waste, decompose in a landfill. To achieve this goal, the bill established milestones based on 2015 disposal levels that require actions by state and local agencies, residents, and businesses to:

- Rescue 20% of previously disposed edible food for human consumption by 2025.
- Divert 75% of previously disposed organic materials from landfills by 2025.

The purpose of the compost procurement provisions in the law – now codified in [RCW 43.19A.150](#), [RCW 43.19A.160](#), and in an amendment to [RCW 39.30.040](#) - is to strengthen markets for the anticipated large amounts of additional compost that will be produced as organics collection programs expand.

Specifically, these amended statutes require cities and counties that meet certain criteria to adopt **compost procurement ordinances (CPO)** and to report their compost purchases to Ecology.

*Below are answers to key questions about how these new provisions affect local governments:*

### Which local governments are required to adopt a CPO and submit compost procurement activity reports to Ecology?

- Counties and incorporated cities with a **population of more than 25,000** based on the latest [Office of Financial Management data](#) are required to adopt a CPO and submit compost procurement activity reports to Ecology.

- Jurisdictions with a **population of fewer than 25,000 in which curbside organics collection services are provided** may be required to adopt a CPO and submit compost procurement activity reports to Ecology. This is required in the following situations:
  - Counties with a population of 25,000 or fewer in which curbside organics collection services are provided including services provided in unincorporated or incorporated parts of the county.
  - Incorporated cities or towns with a population of 25,000 or fewer in which curbside organics collection services are provided.

### What options do jurisdictions have for meeting the CPO adoption and reporting requirements?

1. A county, city, or town can adopt their own CPO and submit their own compost procurement report to Ecology.
2. Counties, cities, or towns with existing recycled product procurement ordinances can amend them to include compost.
3. Cities can sign onto a county CPO and have the county submit procurement reports that include city purchases. This could be done through a separate interlocal agreement or by amending the County's solid waste management plan (Plan) to include a CPO. The amendment would then cover these requirements for all signatories to the Plan.
4. Two or more cities or towns can sign joint CPOs and submit joint procurement reports.
5. Two or more counties can sign joint CPOs and submit joint procurement reports.

**What should a CPO address?** A CPO is intended to implement [RCW 43.19A.120: Use of compost products in projects. \(wa.gov\)](#). This statute states that when “planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.” If it is determined that compost products can be used, then they must be used unless certain exceptions related to cost, availability, and quality apply. Other relevant statutes to review in preparing a CPO include:

- [RCW 43.19A.110: Local road projects—Compost products. \(wa.gov\)](#)
- [RCW 43.19A.130: Local governments encouraged to enter compost product purchasing agreements. \(wa.gov\)](#)

### What is the deadline for adopting a CPO?

By **Jan. 1, 2023**

**What needs to be included in a compost procurement activity report?** Compost procurement activity reports need to include the following:

- The total tons of organic material diverted each year.
- The volume and cost of compost purchased each year.
- The source(s) of the compost

### When are compost procurement activity reports due?

The first report is due by **Dec. 31, 2024**, and by December 31 in every subsequent even-numbered year – 2024, 2026, 2028, 2030 and so on.

**How will compost procurement reports be submitted and tracked?** - Ecology is developing an online system for local governments to submit their compost procurement activity reports. The first reports are due at the end of 2024, and we expect the reporting portal to be open by July 1, 2024.

### Are there other related requirements in the new law?

**Yes.** Any county or city that adopts a CPO must “develop strategies to inform residents about the value of compost and how the jurisdiction uses compost in its operations.” These strategies will need to be included in the local solid waste management plan the jurisdiction participates in when that plan is amended or updated. Information on the value of compost and making and using compost can be found on [Ecology’s Compost web page](#).

**Where can I find out more?** Below are some additional resources to learn about the new law and its compost procurement provisions.

- **Overview of the Organics Management Act** - Ecology is gathering additional resources and [posting them here](#).
- **Procurement resources including CPO templates** - Ecology is gathering procurement resources including CPO templates and examples to help local governments get started on their ordinances and is [posting them here](#).
- **Environmentally preferred purchasing resources**
  - [Dept. Of Environmental Services \(DES\) Environmentally Preferred Purchasing](#)
  - [DES - Recycled Products Environmental Preference Desk Aid](#)
  - [Ecology - Green purchasing for businesses](#)
  - [Ecology - Green products](#)
  - [Ecology - Focus on Compost: Buying and Using Compost](#)

### For more information

Subscribe to our [email news](#) to stay up to date on the latest organics material management news. After submitting your email, first choose the **Solid Waste Program**, and then **Organic Materials** to sign up.



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To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-6381 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877- 833-6341.