

ORDINANCE NO. 1692

AN ORDINANCE OF THE COUNTY OF SUTTER AMENDING THE SUTTER COUNTY ORDINANCE CODE BY ADDING CHAPTER 1383 PERTAINING TO CALGREEN BUILDING STANDARDS AND WATER EFFICIENT LANDSCAPE

THE BOARD OF SUPERVISORS OF THE COUNTY OF SUTTER ORDAINS AS FOLLOWS:

SECTION 1. The Sutter County Ordinance Code is amended by adding Chapter 1383 to read, in its entirety, as follows:

Chapter 1383

CALGreen Building Standards and Water Efficient Landscape

Sections

1383-010	Authority
1383-020	Definitions
1383-030	Compliance with CALGreen Building Standards Recycling Requirements
1383-040	Model Water Efficient Landscaping Ordinance Requirements
1383-050	Inspections and Investigations
1383-060	Enforcement

1383-010 AUTHORITY

California Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Sutter County to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of the SB 1383 Regulations, including compliance with the construction and demolition debris diversion requirements of CALGreen; the provision of readily accessible areas for depositing, storage and collection of non-hazardous materials for recycling in Multi-Family Residential Dwellings and commercial construction projects as required by CALGreen; and, compliance with specified provisions of the Model Water Efficient Landscape Ordinance (MWELO) established by Title 23 California Code of Regulations, Division 2, Chapter 2.7.

1383-020 DEFINITIONS

- (a) "CALGreen" means the California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, also known as the CALGreen Building Codes.

- (b) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing the SB 1383 Regulations on jurisdictions (and others).
- (c) "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).
- (d) "Commercial Business" or "Commercial" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A multi-family residential dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.
- (e) "Compliance Review" means a review of records by Sutter County to determine compliance with this ordinance.
- (f) "Designee" means an entity that Sutter County contracts with or otherwise arranges to carry out any of Sutter County's responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a private entity, or a combination of those entities.
- (g) "Enforcement Action" means an action of Sutter County to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (h) "Inspection" means a site visit where Sutter County reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of materials to determine if the entity is complying with requirements set forth in this ordinance.
- (i) "Sutter County Enforcement Official" means the County Administrator, department director, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this ordinance.
- (j) "Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units.
- (k) "Model Water Efficient Landscape Ordinance" or "MWELO" refers to the Model Water Efficient Landscape Ordinance (MWELO), 23 CCR, Division 2, Chapter 2.7.
- (l) "Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise

defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

- (m) “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the California Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the California Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.
- (n) “SB 1383 Regulations” means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- (o) “Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.

1383-030 COMPLIANCE WITH CALGREEN BUILDING STANDARDS RECYCLING REQUIREMENTS

- (a) Persons applying for a permit from Sutter County for new construction and building additions and alterations shall comply with the construction and demolition debris diversion requirements pursuant to Sections 4.408 and 5.408, as applicable, of the California Green Building Standards Code, Title 24 of the California Code of Regulations (CCR), Part 11, known as CALGreen, as may be amended, if its project is covered by the scope of CALGreen. For projects covered by the scope of CALGreen, project applicants shall also comply with all written and published Sutter County policies and/or administrative guidelines regarding the provision of a construction waste management plan; construction waste management plan acknowledgment by the project contractor and subcontractors; and, construction waste management plan compliance documentation.
- (b) Project applicants shall refer to Sutter County’s Ordinance Code for complete CALGreen requirements.
- (c) For projects covered by CALGreen, as may be amended, applicants must, as a condition of Sutter County’s permit approval, comply with the following:
 - (1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all

buildings on the site and that are identified for the storage and collection of nonhazardous materials for recycling, including recyclable materials and organic waste materials collected in Sutter County's solid waste collection program, in compliance with provision of adequate space for recycling for Multi-Family premises pursuant to Section 4.410.2 of the California Green Building Standards Code, 24 CCR, Part 11.

- (2) New Commercial (excluding Multi-Family premises) construction or additions resulting in an increase of 30% or more of the floor area shall provide readily accessible areas identified for the storage and collection of nonhazardous materials for recycling, including recyclable materials and organic waste materials collected in Sutter County's solid waste collection program, in compliance with provision of adequate space for recycling for Commercial premises pursuant to Sections 5.410.1 and 5.410.1.2 of the California Green Building Standards Code, 24 CCR, Part 11 as may be amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020. Section 5.410.1.2 of the California Green Building Standards Code, 24 CCR, Part 11 references the space allocation sample ordinance developed pursuant to Chapter 18, Part 3, Division 30 of the California Public Resources Code, known as the California Solid Waste Reuse and Recycling Access Act of 1991, which took effect in Sutter County September 1, 1993 as Sutter County did not adopt an alternate ordinance.

1383-040 MODEL WATER EFFICIENT LANDSCAPING ORDINANCE
REQUIREMENTS

- (a) Property owners or their building or landscape designers, including anyone requiring a building or planning permit, plan check, or landscape design review from Sutter County, who are constructing a new (Single-Family, Multi-Family, public, institutional, or Commercial) project with a landscape area greater than 500 square feet, or rehabilitating an existing landscape with a total landscape area greater than 2,500 square feet, shall comply with Sections 492.6(a)(3)(B) (C), (D), and (G), as may be amended, of the MWELO as delineated in this Section 4.
- (b) The following soil amendment, compost and mulch use requirements that are part of the MWELO are now also included as requirements of this ordinance. Other requirements of the MWELO are in effect and can be found in 23 CCR, Division 2, Chapter 2.7.

- (c) Property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 4(a) above shall comply with Sections 492.6 (a)(3)(B)(C),(D) and (G), as may be amended, of the MWELO, which requires the submittal of a landscape design plan with a soil preparation, mulch, and amendments section to include the following:
- (1) For landscape installations, soil amendments shall be incorporated according to recommendations of the soil management report per Section 492.5 of the MWELO and what is appropriate for the plants selected.
 - (2) For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six (6) inches into the soil. Soils with greater than six percent (6%) organic matter in the top six (6) inches of soil are exempt from adding compost and tilling.
 - (3) For landscape installations, a minimum three- (3-) inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife up to five percent (5%) of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.
 - (4) Organic mulch materials made from recycled or post-consumer materials shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local fuel modification plan guidelines or other applicable local ordinances.
- (d) The MWELO compliance items listed in this Section 4 are not an inclusive list of MWELO requirements; therefore, property owners or their building or landscape designers that meet the threshold for MWELO compliance outlined in Section 4(a) shall consult the full MWELO for all requirements.

1383-050 INSPECTIONS AND INVESTIGATIONS BY SUTTER COUNTY

- (a) Sutter County representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any project site, collection container or collection vehicle loads to confirm compliance with this ordinance by Commercial Businesses (including Multi-Family Residential Dwellings); property owners; building/demolition/landscaping

contractors; or, other entity subject to applicable laws. This section does not allow Sutter County representatives and/or its designated entity, including Designees to enter the interior of a private residential property for Inspection.

- (b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with Sutter County's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper solid waste collection services, proper placement of materials in containers, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.
- (c) Any records obtained by Sutter County during its Inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- (d) Sutter County representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- (e) Sutter County shall receive written complaints from persons regarding an entity that may be potentially non-compliant with this ordinance, including receipt of anonymous complaints.

1383-060 ENFORCEMENT

- (a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a Sutter County Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. Sutter County's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Sutter County may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Sutter County may choose to delay court action until such time as a sufficiently large

number of violations, or cumulative size of violations exist such that court action is a reasonable use of Sutter County staff and resources.

(c) Responsible Entity for Enforcement

- (1) Enforcement pursuant to this ordinance may be undertaken by Sutter County Enforcement Official(s) or their designated entity, legal counsel, or combination thereof.
- (2) Sutter County Enforcement Official(s) will interpret ordinance; determine if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.
- (3) Sutter County Enforcement Official(s) may issue Notices of Violation(s).

(d) Process for Enforcement

- (1) Sutter County Enforcement Official(s) and/or their Designee will monitor compliance with this ordinance randomly and through Compliance Reviews, investigation of complaints, and an Inspection program. Section 5 establishes Sutter County's right to conduct Inspections and investigations.
- (2) Sutter County may issue an official notification to notify regulated entities of its obligations under the ordinance.
- (3) Sutter County shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.
- (4) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, Sutter County shall commence an action to impose penalties, via an administrative citation and fine, pursuant to this ordinance.

Notices shall be sent to the Commercial Business (including Multi-Family Residential Dwellings); property owner; building/demolition/landscaping contractor; or, other entity responsible for the violation.

(e) Penalty Amounts for Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$50 per violation.

- (2) For a second violation, the amount of the base penalty shall be \$100 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$250 per violation.

(f) Compliance Deadline Extension Considerations

Sutter County may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 6 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

- (1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters; or,
- (2) Delays in obtaining discretionary permits or other government agency approvals.

(g) Appeals Process

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with Sutter County's procedures in Sutter County's codes for appeals of administrative citations. Evidence may be presented at the hearing. Sutter County will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(h) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, Sutter County will conduct Inspections and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if Sutter County determines that a Commercial Business (including Multi-Family Residential Dwellings); property owner; building/demolition/landscaping contractor; or, other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(i) Civil Penalties for Non-Compliance

Beginning January 1, 2024, if Sutter County determines that a Commercial Business (including Multi-Family Residential Dwellings); property owner; building/demolition/landscaping contractor; or, other entity is not in compliance

with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this Section 6, as needed.

SECTION 2: If any section, subsection, sentence, clause, portion, or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 3: This Ordinance shall take effect thirty (30) days after the date of its adoption and before the expiration of fifteen (15) days from the date of passage thereof shall be published at least once in the Appeal-Democrat, a newspaper of general circulations, printed and published in the County of Sutter, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED this 22nd day of March 2022, by the Sutter County Board of Supervisors, State of California, by the following vote:

AYES: Supervisors Micheli, Flores, Ziegenmeyer, Bains, and Conant

NOES: None

ABSENT: None


MIKE ZIEGENMEYER, CHAIR
BOARD OF SUPERVISORS

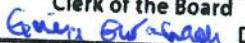
ATTEST:
DONNA M. JOHNSTON, CLERK

By: 
Deputy



FILED

MAR 23 2022

BOARD OF SUPERVISORS
DONNA M. JOHNSTON
Clerk of the Board
By:  Deputy