

Policy that Produces Progress: Model Ordinances and Other Governance Tools to Reduce Food Waste

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The Environmental Law Institute

ELI's mission is to foster innovative, just, and practical law and policy solutions to enable leaders across borders and sectors to make environmental, economic, and social progress.

ELI's work spans a range of topics



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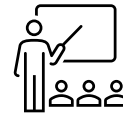


Environmental Governance

ELI's role takes many forms



Developing law and policy



Educating professionals and the public



Providing objective data and analysis



Convening diverse groups to solve problems

ELI's Work on Food Waste

The ELI Food Waste Initiative conducts research and works with stakeholders to prevent food waste, increase surplus food donation, and recycle the remaining food scraps.

This work includes research reports, model policies, policy toolkits, landscape analyses, and more.

Meet the ELI Food Waste Initiative team:



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ELI/NRDC Model Policies

ELI and NRDC work together to develop model policies that are intended to provide municipalities and advocates with tools to reduce the time and resources associated with taking action to address food waste.

The models:

- Based on **extensive research** and **best practices**
- **Adaptable** to needs of individual municipalities
- Include versions with and without **commentaries**
- Accompanied by supporting materials such as **background memos**, **resource charts**, and **slide decks**

ELI/NRDC Model Policies

- Compost Procurement Policy
- Mandatory Reporting Ordinance for Large Food Waste Generators
- Executive Order on Municipal Leadership on Food Waste Reduction
- Ordinance Establishing a Pay-As-You-Throw Program for Residential MSW
- Zoning Ordinance Relating to Community Composting Operations (in progress)

Model Compost Procurement Policy

Municipality “**shall purchase compost for use in public projects** in which compost is an appropriate material, **provided it is not cost prohibitive** to acquire.” This includes:



- Landscaping



- Construction



- Roads & highways



- Low-impact development and green infrastructure

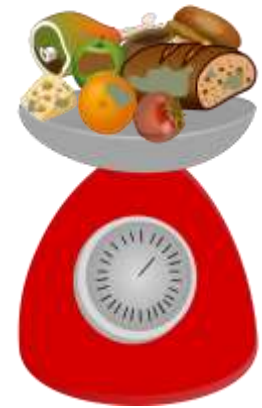
The policy also lays out specific sourcing and quality requirements and annual reporting requirements.

Goal(s) of policy: To increase the use of and build up the local market for compost.

Model Ordinance on Mandatory Reporting for Large Food Waste Generators

Large food waste generators must **report the amount of food waste** they generate, the amount of surplus food they **donate**, and the amount of food scraps they **recycle**.

These reporting requirements apply to “...businesses, nonprofit organizations, and municipal governmental subunits that... generate a total annual average of **two tons per week** or more of food waste”



Goal(s) of policy: To **provide data** on food waste generation, **increase awareness** of how much food is being wasted; and **lead to reductions** in landfilling and incineration of food waste.

Model Executive Order on Municipal Leadership on Food Waste Reduction

Municipality can “**lead by example**” by instituting policies, programs, and actions **across city government** to raise awareness about and reduce food waste. These actions may include:

- Setting a food waste reduction target
- Incorporating food waste reduction measures in procurement policies and processes
- Creating a central entity to coordinate municipal food waste reduction efforts
- Requiring each municipal department to develop a food waste reduction strategy

Goal(s) of policy: To **reduce food waste** throughout municipal operations, **highlight the importance** of reducing food waste, and **demonstrate** practices that other entities may voluntarily replicate.

Model Ordinance Establishing a Pay-As-You-Throw Program for Residential Municipal Solid Waste

MSW haulers must “employ a **variable rate pricing system** designed to **incentivize households** to generate less trash and to increase materials recycling and organics recycling.”

The Model requires that:

- Haulers (municipal and/or private) offer **various sizes and numbers of trash containers** to households and charge accordingly.
- The municipality adopts **materials recycling and organics recycling programs** that include **curbside collection** (or, at minimum, assesses the feasibility of curbside compostables collection).



Goal(s) of policy: To **decrease landfilling and incineration** of MSW and to establish a residential MSW management pricing scheme that promotes **transparency, efficiency, and fairness**.

Supporting Materials: Sample Commentaries

4.0 Covered Entities:⁸ Covered entities are businesses, nonprofit organizations, and municipal governmental subunits that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises and generate a total annual average of two tons per week⁹ or more of food waste based on the methods referenced in Section 6.¹⁰

- 8 The language defining covered entities is based on definitions in several state and municipal food waste diversion laws and ordinances, including New York State and Portland, Oregon. Environmental Conservation, ch. 43-B, art. 27, tit. 22, § 27-2201, Consolidated Laws of New York, <https://www.nysenate.gov/legislation/laws/ENV/27-2201>; City Code, tit. 17 § 17.102.020, Portland, Oregon, <https://www.portland.gov/code/17/102#toc--17-102-020-definitions->.
- 9 Some municipalities and states have developed estimation tools to identify entities subject to their diversion requirements (New York) or to calculate a jurisdiction's total food waste generation by business group (California). New York State Department of Environmental Conservation, "Food Donation and Food Scraps Recycling Law," accessed May 13, 2022, <https://www.dec.ny.gov/chemical/114499.html#DFSG>; CalRecycle, "Business Group Waste Stream Calculator," State of California, accessed May 13, 2022, <https://www2.calrecycle.ca.gov/WasteCharacterization/BusinessGroupCalculator>. Tools can also be used by covered entities to determine if they meet required thresholds (Massachusetts). RecyclingWorks Massachusetts, "Food Waste Estimation Guide," accessed May 13, 2022, <https://recyclingworksma.com/food-waste-estimation-guide>.
- 10 The Model applies to virtually all types of entities that meet the food waste generation threshold of two tons per week, which is a commonly used threshold in state and local diversion requirements, as it covers the largest surplus food generators, which typically have the staff, expertise, and other resources to comply. Municipalities may opt, however, to vary the scope and type of entities covered by, for example, generator type, physical size of businesses, or generation threshold.

Supporting Materials: Sample Background Memo



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MANDATORY REPORTING FOR LARGE FOOD WASTE GENERATORS BACKGROUND MEMORANDUM

INTRODUCTION

The Model Ordinance on Mandatory Reporting for Large Food Waste Generators (Model) is a template ordinance that can be adapted and enacted by local municipalities to require reporting of food waste and surplus food generation from large food waste generators.¹ It was developed by NRDC (Natural Resources Defense Council) and the Environmental Law Institute (ELI) to provide a resource for local officials, municipal staff, and stakeholders who are interested in enacting policy changes that promote food waste reduction measures and facilitate the diversion of food waste from landfills and incinerators.² The Model is part of an ongoing effort to provide municipalities and advocates with tools to reduce the time and resources associated with taking food waste reduction actions.²

The measurement and reporting of food waste generation can yield important data to help cities track progress and focus their strategies on food waste reduction. Given this, many municipalities are adopting measurement and reporting requirements in connection with mandatory diversion policies. Even without a diversion mandate, however, a reporting requirement can encourage covered entities to reduce their food waste by increasing awareness of the problem and raising reputational and financial concerns, as discussed below.

HOW TO USE THE MODEL ORDINANCE

The Model can be enacted by municipalities to require large surplus food generators to report the amount of food waste and surplus food they generate.⁴ The “off-the-shelf” Model is intended to provide clean, streamlined language that can easily be adapted and enacted by municipalities. The footnoted version with commentaries provides additional background information, explains the benefits of key provisions and alternative approaches, and provides links to examples—all of which are intended to help guide stakeholders and policymakers in tailoring the ordinance to the circumstances of their municipality. The Model, in combination with this background memo, is intended to help mitigate the substantial transaction costs associated with researching, drafting, and enacting measures, which often prevent resource-strapped municipalities from taking much-needed steps to advance food waste reduction.

The Model is drafted in the form of an ordinance to be enacted by the legislative branch (e.g., city council) of a municipality (or other form of local government, such as a county). As a general rule, ordinances are the appropriate governance tool when an action is intended to affect the conduct of nongovernmental parties. Because the Model requires private, nongovernmental entities to report their food waste generation, it is framed as an ordinance (referred to as “by-laws” in some jurisdictions), rather than a mayoral executive order or legislative resolution, which are typically appropriate for actions that set policy for the administration of a municipality’s internal functions. Accordingly, in some jurisdictions, a mayor may be able to implement the components of the Model that apply only to municipal subunits.⁵

However, deciding the appropriate governance tool to employ will always require a case-by-case assessment. Municipalities vary widely with respect to form of government (e.g., mayor-council and council-manager) and scope of authority granted by their state. In most cases, a municipality’s law department will be able to determine whether the municipality has the power to adopt the Model by referring to the state constitution, state laws governing the municipal form of government, and municipal charter. Some jurisdictions have limited authority to adopt ordinances under state law, while others, mostly “home rule” jurisdictions, are more likely to have broad authority.⁶

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Supporting Materials: Sample Slide Deck

WHAT IS A MANDATORY REPORTING ORDINANCE?



Mandatory reporting ordinances require large surplus food generators to report the amounts of food waste and surplus food that they generate.



IS A MANDATORY REPORTING ORDINANCE RIGHT FOR MY CITY?

- Measurement and reporting requirements can be helpful in a variety of ways to a wide range of cities.
- For example, data can be used to:
 - Understand baseline food waste generation and track progress
 - Institute new diversion requirements
 - Inform changes to existing zero waste and other waste management requirements



ECONOMIC BENEFITS

Diverting food waste from landfills and incinerators typically:

- **Reduces the need to expand and create new landfills**, which are costly and disproportionately sited in low-income communities and communities of color
- **Fosters economic development** through increased compost supplier and processor jobs
- **Lowers waste management costs** associated with landfill disposal
- **Increases production of compost when food scraps are recycled**, which can reduce the demand for irrigation and fertilizer, thereby reducing operational costs



BACKGROUND ON THE MODEL ORDINANCE

- Model ordinance developed by NRDC (Natural Resources Defense Council) and the Environmental Law Institute (ELI)
- Based on **extensive research and best practices**
- Adaptable tool that can be **tailored** to needs of individual municipalities
- Versions with and without commentaries
 - Version with commentaries and accompanying research memo offer **background information and alternative approaches**

KEYS TO EQUITABLE IMPLEMENTATION

Translation • Technical assistance • Hardship waivers • Equitable enforcement

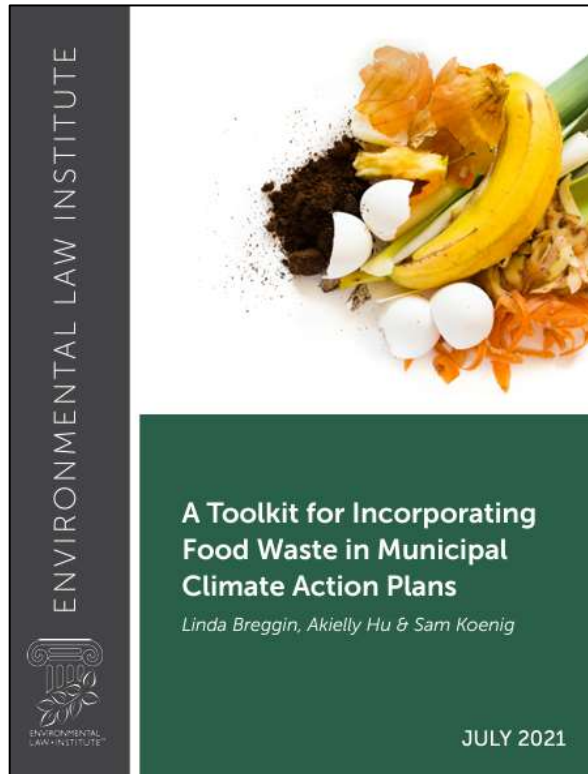


ALTERNATIVE APPROACHES INCLUDE...

- **Covered Entities:**
 - Higher or lower generation threshold
 - Different criteria, such as:
 - Generator/business type
 - Generator size (e.g. floor area)
 - Materials covered (e.g. additional types of organics, such as yard waste)
- **Reporting Requirements:**
 - Truncated reporting requirements
 - Additional reporting requirements
- **Methods for Quantifying Food Waste Generation and Surplus Food Donation:**
 - Additional quantification methods
 - Elimination of some methods

ELI's Other Policy Tools

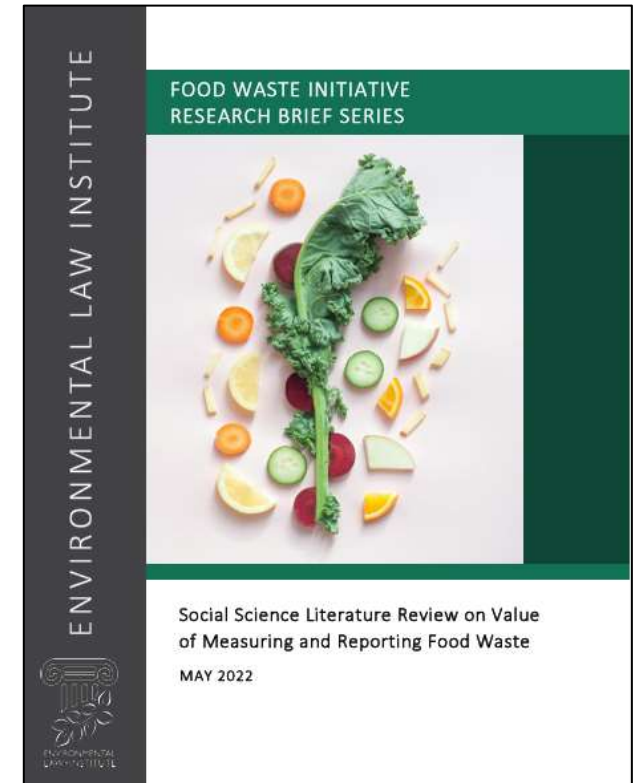
Toolkits



Reports



Research Briefs



And more! See <https://www.eli.org/food-waste-initiative/publications>