

ORDINANCE NO. 48 |

AN ORDINANCE adopting a Model Compost Procurement Policy in Grays Harbor County

WHEREAS, in March 2022, the Engrossed Second Substitute House Bill (“ESSHB”) 1799 was passed by the Washington state legislature and signed by the Governor. The primary goal of the law is to increase the diversion of organic materials going to landfills in order to reduce methane emissions due to landfills being a significant source of methane emissions; and

WHEREAS, Section 701 of ESSHB 1799, now codified at Revised Code of Washington (“RCW”) 43.19A.150, requires cities to “adopt a compost procurement ordinance to implement RCW 43.19A.120.”

WHEREAS, ESSHB 1799 encourages local governments to develop material collection services within their jurisdictions in order to increase volumes of organic materials collected and delivered to composting and other organic material management facilities and reduce volumes of organic materials collected in conjunction with other solid waste and delivered to landfills; and

WHEREAS, as more organic materials are diverted and recycled, it is critical that the compost manufactured be procured in part by local jurisdictions (and others) to support the economic viability of established processes and programs. RCW 43.19A.120(2) 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;” and

WHEREAS, the purpose of this ordinance is to conform to state law regarding compost procurement by adopting a compost procurement ordinance by January 1, 2023.¹

NOW, THEREFORE, be it ordained by the Board of County Commissioners (“BOCC”) of Grays Harbor County, State of Washington as follows:

Section 1. **Definitions.** For purposes of this ordinance, the following terms mean:

Composted Material. Organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

Finished Compost Product. A product created with “composted material” as defined at RCW 70A.205.015(3). Finished Compost Products include, but are not limited to, 100% finished compost or blends that include compost as a primary ingredient. Mulch is considered a Finished Compost Product if it contains a minimum of sixty percent composted material. Bark is not a Finished Compost Product.

¹ Laws of 2022, ch. 180. E2SHB 1799, Organic Materials – Various Provisions.
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Landfill. A disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

Organic Material. Any solid waste that is a biological substance of plant or animal origin capable of microbial degradation to include but not limited to: manure, yard debris, food waste, food processing waste, wood waste, and garden waste.

Section 2. **Statement of Purpose.** 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 on the part of the County, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the County related in any manner to the enforcement of this Ordinance by its officers, employees, or agents.

Section 3. **General Policy.** Grays Harbor County (the “County”) shall divert organic material from landfills to organic material management services and in consideration shall purchase finished compost products by:

3.1. **Local Purchasing.** The County shall purchase finished compost products from companies producing compost locally, are certified by a nationally recognized organization, such as the US Composting Council, and produce finished compost products derived from municipal solid waste compost programs while meeting quality standards adopted by the Department of Transportation or adopted by rule by the Department of Ecology.² If locally produced compost is not available, compost shall be sourced from outside the region, with preference given to products sourced as close as possible to the County. Proof that locally produced compost was not available at the time of purchase or was cost-prohibitive shall be documented.

The County shall purchase finished compost products for use in public projects in which compost is an appropriate material in county projects or on county land, provided it is not cost prohibitive to acquire. Cost prohibitive is defined as a product purchasing cost that exceeds 10% of the cost of another product that would serve the same purpose. The County is not required to use compost products if:

- 3.1.1. Compost products are not available within a reasonable period of time; or
- 3.1.2. Compost products that are available do not comply with existing purchasing standards; or
- 3.1.3. Available compost products do not comply with federal or state health, quality, or safety standards.³

² RCW 43.19A.130, Local governments are encouraged to enter compost product purchasing agreements.

³ RCW 43.19A.120, Use of compost products in projects.

Pursuant to RCW 43.19A.130, The County will strive to purchase an amount of finished compost products from a compost processor equal to or greater than fifty percent (50%) of the amount of organic materials delivered to the compost processor.

3.2. **Organic Material Collection.** The County shall develop a coordinated, comprehensive solid waste management plan (“management plan”) designed to encompass the unique needs of the County when the County meets the criteria designated in ESSHB 1799. As part of the management plan, the County will develop organic material collection services to ensure proper handling and disposal of organic materials in order to increase volumes of organic materials collected and delivered to organic material management facilities in compliance with RCW 70.95.030 and ESSHB 1799 Sec. 103.

Section 4. **Planning.** To the extent required by RCW 43.19A.150(3), the County shall plan for compost use in the following categories:

- 4.1. Landscaping projects; and
- 4.2. Construction and post construction soil amendments; and
- 4.3. Applications to prevent erosion, filter storm water runoff, promote vegetative growth, or improve the stability and longevity of roadways; and
- 4.4. Low-impact development of green infrastructure to filter pollutants or to keep water onsite, 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 herein Section 6.

Section 5. **Education.** The County shall conduct educational outreach to inform residents about the value of compost and how the jurisdiction uses compost in its operations each year according to RCW 43.19A.150(4).

Section 6. **Reporting.** By December 31, 2024, and each December 31st of even-numbered years thereafter, the County shall report the following information to the Department of Ecology:

- 6.1. Total tons of organic material diverted each year; and
- 6.2. The volume and cost of composted material purchased each year; and
 - 6.2.1. Compost volume tracking and reporting is based on the percentage of compost material in a finished compost product as determined by ESSHB 1799, 2022.
- 6.3. The source(s) of the finished compost product purchased.

Section 7. **Severability.** If any section, subsection, sentence, clause, phrase or other portion of this Ordinance or its application to any person is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.


The enactment of this Ordinance shall not affect any case, preceding, 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 8. **Effective Date.** This Ordinance shall take effect immediately upon its passage, approval, and publication.

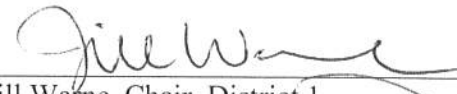
APPROVED AND ADOPTED by the Board of County Commissioners of Grays Harbor County, State of Washington on this 24th day of January, 2023.

**BOARD OF COMMISSIONIONERS
GRAYS HARBOR COUNTY**

ATTEST:

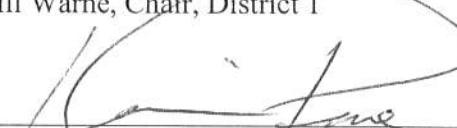


Wendy Chatham, Clerk of the Board

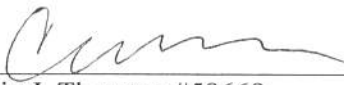


Jill Warne, Chair, District 1

APPROVED AS TO FORM:



Kevin Pine, Commissioner, District 2



Cielia J. Thurston #58668
Deputy Prosecuting Attorney



Vickie L. Raines, Commissioner, District 3