

City Council Meeting November 9, 2021

Santa Monica, California

ORDINANCE NUMBER 2685 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA TO ADD SECTION 5.46 OF THE SANTA MONICA MUNICIPAL CODE TO
ORGANICS RECYCLING REQUIREMENTS

WHEREAS, Santa Monica has a long-standing commitment to the environment, which includes a goal to achieve zero waste through landfill diversion and recycling by 2030; and

WHEREAS, California's Short-Lived Climate Pollutant Reduction Act of 2016, Senate Bill 1383 (SB 1383), requires jurisdictions to adopt and enforce an ordinance to implement regulations to divert organics disposal (green waste and food waste) from landfills for sustainable applications; and

WHEREAS, by diverting organics from the landfills and using them for beneficial purposes such as compost, mulch, and renewable energy, the state and its jurisdictions would reduce its negative impact on climate change as a result of reduced methane contribution to the atmosphere; and

WHEREAS, to reduce landfill methane gas production, the requirements of SB 1383 – considered to be the most significant waste reduction mandate to be adopted in California in the last 30 years – compel all generators of organic materials to support the realization of the following statewide organic waste disposal reduction targets; and

WHEREAS, all jurisdictions and their organics generators shall recycle organic materials for beneficial and sustainable end-uses; and

WHEREAS, by approving an organics recycling ordinance, the City would implement the requirements of and be in compliance with SB 1383, and would dramatically increase recycling rates of food and green waste materials normally destined for the landfill; and

WHEREAS, an organics recycling ordinance would also help the City reach its 2030 zero waste goal of reducing the per capita landfill disposal rate to 1.1 pounds of landfilled waste per person per day; and

WHEREAS, the City's Resource Recovery and Recycling (RRR) Division has been rolling out green containers to organic waste generators during 2021, and is already conducting extensive outreach to prepare account holders for these new requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 5.46 is hereby added to read as follows:

CHAPTER 5.46 MANDATORY RECYCLING ORDINANCE

5.46.010 FINDINGS

The City Council finds and declares:

(a) The City of Santa Monica has a duty to protect and preserve the health of the natural environment, the economy, and its citizens on a sustainable basis.

(b) The City of Santa Monica promotes and supports sustainable disposal, which includes reduction, reuse, and recycling of, and land application and renewable energy production from, unwanted and discardable items. These items shall not be sent for land disposal but to sustainable disposal strategies.

(c) State recycling law, Assembly Bill 939 of 1989, the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste to conserve water, energy, and other natural resources and to protect the environment.

(d) The California Integrated Waste Management Act of 1989 mandates that each local jurisdiction in the state divert 50% of discarded materials from landfills by December 31, 2000. Every city and county in California could face fines for not meeting the 50% diversion goal. In 2001, the California Integrated Waste Management Board adopted a Strategic Directive statewide “zero waste” goal.

(e) Organic or compostable waste that is buried in the anaerobic conditions of landfills creates methane gas along with the leaching of toxins. Landfill methane gas is at least 21 times as potent as carbon dioxide in potential impact to the planet's climate. Biomethane, from composting, is less potent than landfill methane.

(f) There are facilities in Southern California that can effectively reuse, recycle, compost or otherwise process and market much of the materials discarded in Santa Monica and thereby divert such materials from landfills, while hopefully creating a market for new jobs.

(g) Many state and local governments have mandated recycling of various materials and composting of yard trimmings and Food Scraps or conversely banned them from landfills.

(h) State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011) (as amended, supplemented, superseded, and replaced from time to time) places requirements on businesses and Multi-Family property owners that

generate a specified threshold amount of Solid Waste to arrange for recycling services and requires jurisdictions to implement a Mandatory Commercial Recycling program.

(i) State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014)(as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Waste per week to arrange for recycling services for that waste, requires jurisdictions to implement a recycling program to divert Organic Waste from businesses subject to the law, and requires jurisdictions to implement a Mandatory Commercial Organics Recycling program.

(j) SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.

(k) The Short-lived Climate Pollutant Reduction Act of 2016 requires jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

(l) The Short-lived Climate Pollutant Reduction Act of 2016 requires a 50% statewide reduction in organic waste disposal to landfills by 2022, 75% reduction in organic waste disposal to landfills by 2025, and 20% recovery of Edible Food for human consumption by 2025.

(m) The use of composted organics (plant debris, food, and compostable paper) reduces the need for chemical fertilizers and pesticides, which are energy intensive to manufacture and transport. The use of compost also conserves water in landscapes and can help mitigate the decline in soil quality in California and Santa Monica expected to result from climate change.

(n) Facilities in the City and surrounding areas can effectively reuse, recycle, and compost or otherwise process and market much of the materials discarded in Santa Monica and thereby divert such materials from landfills while hopefully creating new jobs.

(o) Requirements in this ordinance are consistent with other adopted goals and policies of the City including prohibition of single-use plastic carry out bags, SMMC Section 5.45; prohibition on the use of non-marine degradable disposable food service ware, SMMC Section 5.44; recycling of construction and demolition (C&D) materials, SMMC Section 8.108; providing recycling containers for each parcel containing a building or structure, SMMC Section 9.21.130; the City's Zero Waste Strategic Plan, Sustainable City Plan, and Climate Action and Adaptation Plan.

5.46.020 PURPOSE

The purpose of this Chapter is to implement state laws in order to reduce the amount of recyclable, e.g., non-organic and organic, solid wastes deposited in landfills from the City's commercial businesses, residents, haulers, and self-haulers.

5.46.030 DEFINITIONS

(a) "Accessory Dwelling Unit" or "ADU" has the same meaning as SMMC Section 9.31.025(B).

(b) "Black Container" has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Black Container Waste.

(c) "Black Container Waste" means Solid Waste that is collected in a Black Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).

(d) "Blue Container" has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic (paper) Waste.

(e) "CalRecycle" means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on jurisdictions (and others).

(f) "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).

(g) "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 multifamily 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.

(h) "Commercial Edible Food Generator" includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in subparagraphs (rrr) and (sss) of this Section or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this

definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).

(i) "Compliance Review" means a review of records by the City to determine compliance with this ordinance.

(j) "Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).

(k) "Compost" has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that "Compost" means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

(l) "Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for composability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

(m) "Container Contamination" or "Contaminated Container" means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).

(n) "C&D" means construction and demolition debris.

(o) "Contractor" means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities of this ordinance as authorized in 14 CCR Section

18981.2. A Contractor may be a government entity, a hauler, a private entity, or a combination of those entities.

(p) "Director" means the Director of Public Works or his or her designee.

(q) "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

(r) "Enforcement Action" means an action of the City to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

(s) "Enforcement Official" means the Director.

(t) "Excluded Waste" means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its Generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, state, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in City's, or its Contractor's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose City, or its Contractor, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs

for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, universal wastes, and/or latex paint when such materials are defined as allowable materials for collection through the City's collection programs and the Generator or customer has properly placed the materials for collection pursuant to instructions provided by City or its Contractor for collection services.

(u) "Food Distributor" means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).

(v) "Food Facility" has the same meaning as in Section 113789 of the Health and Safety Code.

(w) "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

(x) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

(3) A nonprofit charitable temporary Food Facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

(y) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

(z) "Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, eggshells, and Food-Soiled Paper.

(aa) "Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

(bb) "Food-Soiled Paper" is compostable paper or fiber material that has come in contact with food or liquid, such as, but not limited to, paper plates, paper coffee cups, napkins, and pizza boxes.

(cc) "Food Waste" means Food Scraps and Food-Soiled Paper.

(dd) "Generator" means any person who produces solid waste, recyclables and organic materials for disposal and recycling.

(ee) "Green Container" has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste. Some older containers may be Brown and labeled "Food Waste."

(ff) "Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

(gg) "Hauler" means a person who collects material from a Generator and delivers it to a reporting entity or end user. "Hauler" includes public contract haulers, private contract haulers, Food Waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler. The City is the exclusive hauler for all residential and commercial materials. Some land uses have special designation and use a licensed, permitted private hauler. These private haulers shall comply with this Chapter and transport organic material to a facility which composts, mulches, or produces renewable energy from organics.

(hh) "Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).

(ii) "High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the "Mixed waste

organic collection stream" as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

(jj) "Inspection" means a site visit where the City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

(kk) Junior Accessory Dwelling Unit or "JADU" has the same meaning as SMMC Section 9.31.025(C).

(ll) "Large Event" means an event, including, but not limited to, a sporting event or a flea market that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

(mm) "Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large

Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

(nn) "Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

(oo) "Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a container that is required by 14 CCR Sections 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR Section 17402(a)(11.5).

(pp) "Multi-Family Residential Dwelling" or "Multi-Family," for purposes of this Chapter, means of, from, or pertaining to residential premises with five (5) or more dwelling units, including ADUs and JADUs. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. Also known as Commercial for the purposes of this Chapter.

(qq) "Non-Compostable or Non-Degradable Paper or Plastic" includes, but is not limited to, paper that is coated in a plastic or wax material and plastics that will not breakdown in the commercial composting process, or as otherwise defined in 14 CCR Section 18982(a)(41), including bio0degradable paper or plastic.

(rr) "Non-Local Entity" means the following entities that are not subject to the City's enforcement authority, or as otherwise defined in 14 CCR Section 18982(a)(42):

- (1) Special district(s) located within the boundaries of the City.
- (2) Federal facilities, including military installations, located within the boundaries of the City.

(3) Facilities operated by the State park system located within the boundaries of the City.

(4) Public universities (including community colleges) located within the boundaries of the City, including Santa Monica Community College.

(5) State agencies located within the boundaries of the City, such as the Department of Motor Vehicles.

(ss) "Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, paper, and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).

(tt) "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.

(uu) "Organic Waste" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a). Also known as Organic Material or Organics.

(vv) "Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

(ww) "Paper Products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).

(xx) "Person" includes any person, firm, association, organization, partnership, business trust, company, or corporation.

(yy) "Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Black Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in Jurisdiction's Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

(zz) "Recovery" means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

(aaa) "Recyclables" means any waste material which can be reused or reprocessed to produce a useable material or which is designated by the Director of Public Works or Manager of Resource Recovery and Recycling Division as Recyclable material. Recyclables may include wastes defined as building rubbish, construction and demolition materials, garbage, industrial waste, hazardous waste, or rubbish. Also known as Recyclable Materials SMMC 5.08.010 (m)

(bbb) "Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting Recyclable materials for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, or thermally destroying solid waste.

(ccc) "Remote Monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Black

Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

(ddd) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

(eee) "Route Review" means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras or as otherwise defined in 14 CCR Section 18982(a)(65).

(fff) "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 Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the 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.

(ggg) "SB 1383 Regulations" or "SB 1383 Regulatory" 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.

(hhh) "Self-Hauler" means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

(iii) "Single-Family," for purposes of this Chapter, means of, from, or pertaining to any residential premises with fewer than five (5) dwelling units, including ADUs and JADUs. For the purposes of this Chapter, the single-family owner shall conduct annual education for all onsite residents.

(jjj) "SMMC" means the Santa Monica Municipal Code.

(kkk) "Solid Waste" has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes destined to a landfill, with the exception that Solid Waste does not include any of the following wastes:

(1) Hazardous waste, as defined in the State Public Resources Code Section 40141.

(2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

(3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

(III) "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Chapter, Source Separated shall include separation of materials by the Generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Black Container Waste or other Solid Waste for the purposes of collection and processing.

(mmm) "Source Separated Blue Container Organic Waste" means Source Separated Organic Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7). Organic Waste means former living fiber and dry materials, e.g. paper, cardboard. Excludes plant cuttings, trimmings.

(nnn) "Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the Generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles.

(ooo) "Source Separated Recyclable Materials" means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste including, but not limited to, paper, cardboard, glass, metal, and plastic containers.

(ppp) "State" means the State of California.

(qqq) "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000) or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

(rrr) "Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarket
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet
- (3) Food Service Provider
- (4) Food Distributor
- (5) Wholesale Food Vendor

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Chapter.

(sss) "Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet
- (2) Hotel with an on-site Food Facility and 200 or more rooms
- (3) Health facility with an on-site Food Facility and 100 or more beds
- (4) Large Venue

(5) Large Event

(6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet

(7) A Local Education Agency facility with an on-site Food Facility

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Chapter.

(ttt) "Unit" means a dwelling unit as defined in SMMC Section 9.52.020.0730, an ADU, and a Junior ADU.

(uuu) "Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

5.46.040 GENERAL PROVISIONS AND PROHIBITIONS FOR THE USE OF SOLID WASTE, RECYCLABLE (NON-ORGANIC), AND ORGANIC CONTAINERS BY GENERATORS

(a) Generators shall have and maintain a three-container Solid Waste collection system consisting of Black Containers, Blue Containers, and Green Containers, and shall comply with the general requirements specified in SMMC Section 9.21.130.

(b) Generators shall separate materials into their correct containers and shall not place Prohibited Container Contaminants in any container.

(c) Generators shall provide adequate onsite parcel space for a three-container solid materials system, unless otherwise allowed by the City. The container space or refuse

enclosure shall be large enough to accommodate a minimum of three containers, including additional space for accessibility by persons and collection vehicles.

(d) Generators shall maintain and keep materials containers areas, including refuse enclosures, clean, free of litter, debris, stored supplies, equipment and other materials, and unsanitary conditions, and safely accessible to users and City staff and vehicles.

(e) Generators shall keep container lids closed at all times when not in use.

(f) Generators shall comply with the standards set forth in SMMC Section 9.21.130, to the extent required by Section 9.21.130.A.

(g) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with City's C&D ordinance, SMMC Chapter 8.108, Subpart B, and all written and published City policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

5.46.050 REQUIREMENTS FOR SINGLE-FAMILY GENERATORS

Single-Family Organic Material Generators shall comply with the following requirements except Single-Family Generators that meet the Self-Hauler requirements in Section 5.46.100 of this Chapter:

(a) Shall subscribe to City's three-container collection services and comply with requirements of those services as described below in subparagraph (b). City shall have the right to review the number and size of a Generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Material

by preventing or reducing their Organics, managing it onsite, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(b) Shall place designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.

(1) Generator shall place Source Separated Green Container Organic Waste, including Food Scraps, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Black Container. Generators shall not place materials designated for the Black Container into the Green Container or Blue Container.

5.46.060 REQUIREMENTS FOR COMMERCIAL BUSINESSES AND MULTI-FAMILY RESIDENTIAL DWELLINGS.

Generators that are Commercial Businesses and Multi-Family Residential Dwellings, shall:

(a) Subscribe to City's three-container collection services and comply with requirements of those services as described below in subparagraph (b), except Commercial Businesses that meet the Self-Hauler requirements in Section 5.46.100 of this Chapter. The City shall have the right to review the number and size of a Generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

(b) Except Commercial Businesses that meet the Self-Hauler requirements in Section 5.46.100 of this Chapter, participate in the City's Organics collection service(s) by placing designated materials in designated containers as described below.

(1) Generator shall place Source Separated Green Container Organic Material, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Black Container. Generator shall not place materials designated for the Black Container into the Green Container or Blue Container.

(c) Excluding Multi-Family Residential Dwellings, supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with subparagraph (d)(1) and (d)(2), below) in all indoor and outdoor areas for employees, contractors, tenants, and customers, consistent with City's Blue Container, Green Container, and Black Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 5.46.100.

(d) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for employees, contractors, tenants, and customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the

subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

(e) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in subparagraph (d) pursuant to 14 CCR Section 18984.9(b).

(f) To the extent practical through education, training, inspection, and/or other measures prohibit residents, occupants, tenants, contractors, and employees from placing materials in a container not designated for those materials per the City's Blue Container, Green Container, and Black Container collection service or, if self-hauling, in accordance with Section 5.46.100.

(g) Periodically, e.g. once per month, inspect Blue Containers, Green Containers, and Black Containers for contamination and inform residents, occupants, tenants, contractors, and employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(h) Annually provide information to residents, occupants, tenants, contractors, employees, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

(i) Provide educational information before or within fourteen (14) days of occupation of the premises to new residents, occupants, tenants, contractors, and employees that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Black Container Waste (when applicable) and the location of containers and the rules governing their use at each property.

(j) Provide or arrange access for City or its agent to their properties during all Inspections conducted in accordance with Section 5.46.120 of this Chapter to confirm compliance with the requirements of this Chapter.

(k) Accommodate and cooperate with City's Remote Monitoring program for Inspection, if available, of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate Generator's compliance with subparagraph (b) of this Section. The Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Black Containers.

(l) At Commercial Business's option and subject to any approval required from the City, implement a Remote Monitoring program, if available, for Inspection of the contents of its Blue Containers, Green Containers, and Black Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue Containers, Green Containers, and Black Containers subject to written notification to or approval by the City or its Contractor.

(m) If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 5.46.100 of this Chapter.

(n) Nothing in this Section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste onsite, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(o) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to SMMC Section 5.46.080.

5.46.070 WAIVERS FOR GENERATORS

(a) De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organics recycling requirements of this Chapter if the Commercial Business provides documentation that the business generates below a certain amount of Organic material as described in subparagraph (a)(2) below. Commercial Businesses requesting a de minimis waiver shall:

(1) Submit an application, determined by the City, specifying the services that they are requesting a waiver from and provide documentation as noted in Section (a)(2) below.

(2) Provide documentation that either:

(A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organics subject to collection in a Green Container comprises less than 20 gallons per week per applicable container; or,

(B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic material subject to collection in a Green Container comprises less than 10 gallons per week per applicable container.

(3) Notify City if circumstances change such that Commercial Business's Organics exceed threshold required for waiver, in which case waiver will be rescinded.

(4) Provide written verification of eligibility for de minimis waiver every five years, if City has approved de minimis waiver.

(b) Physical Space Waivers. City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the Organics collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organics collection requirements of this Chapter.

A Commercial Business or property owner may request a physical space waiver through the following process:

(1) Submit an application form specifying the Organics collection service for which they are requesting a compliance waiver.

(2) Provide documentation that the premises lacks adequate space for Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

(3) Provide written verification to City that it is still eligible for physical space waiver every five years, if City has approved application for a physical space waiver.

(c) Modifications. Modifications from Resource Recovery and Recycling design standards that are authorized in accordance with SMMC Section 9.21.130.D.

(d) Review and Approval of Waivers by City

Any waiver must be granted, in writing, by the Director, or his/her designee.

5.46.080 REQUIREMENTS FOR COMMERCIAL EDIBLE FOOD GENERATORS

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 7 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

(c) Commercial Edible Food Generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

(2) Contract with, or enter into a written agreement with, Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

(3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(4) Allow City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

(A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).

(B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

(i) The name, address, and contact information of the Food Recovery Service or Food Recovery Organization.

(ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

(iii) The established frequency that food will be collected or self-hauled.

(iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(6) No later than July 15th of each year commencing no later than July 15, 2022 for Tier One Commercial Edible Food Generators and July 15, 2024 for Tier Two Commercial Edible Food Generators, provide an annual Food Recovery report to the Jurisdiction that includes the following information: weights of all Edible Food recovered, put into major categories of food items, and dates sent to recovery group.

(d) Nothing in this Chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good

Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

5.46.090 REQUIREMENTS FOR FOOD RECOVERY ORGANIZATIONS AND SERVICES

(a) Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.

(2) The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

(3) The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.

(4) The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

(b) Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

(1) The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

(2) The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month, broken into major categories and dates of donation.

(3) The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

(c) Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR Section 18991.3(b) no later than July 15.

(d) Food Recovery Capacity Planning

(1) Food Recovery Services and Food Recovery Organizations. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the County, City, special district that provides solid waste collection services, or its designated entity, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

5.46.100 REQUIREMENTS FOR HAULERS AND FACILITY OPERATORS

(a) Requirements for Haulers

(1) No Hauler shall operate in the City to provide residential, Commercial, or industrial Organic Waste collection services to Generators without a contract, agreement, or other written authorization from the City.

(2) Any Haulers providing residential, Commercial, or industrial Organic Waste collection services to Generators within the City's boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the City to collect Organic Waste:

(A) Obtain a business license from the City.

(B) Through written notice to the City annually on or before July 15, identifying the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and Mixed Waste.

(C) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

(D) Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1 and City's C&D ordinance (SMMC Chapter 8.108 – Subpart B).

(2) Any hauler authorized to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring,

reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with City.

5.46.110 SELF-HAULER REQUIREMENTS

(a) No Self-Hauler shall operate in the City without a contract, agreement, or other written authorization from the City.

(b) Self-Haulers shall source separate all recyclable materials and Organics (materials that City otherwise requires Generators to separate for collection in the City's organics and recycling collection program) generated onsite from Solid Waste in a manner consistent with 14 CCR Section 18984.1, or shall haul Organics to a High Diversion Organic Waste Processing Facility.

(c) Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organics to a High Diversion Organic Waste Processing Facility.

(d) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste. This record shall be subject to Inspection by the Jurisdiction. The records shall include the following information:

(1) Delivery receipts and weight tickets from the entity accepting the waste.

(2) The amount of material in cubic yards or tons transported by the Generator to each entity.

(3) If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

(e) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in SMMC Section 5.46.100(d) to City if requested.

(f) A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in SMMC Section 5.46.100(d) and (e).

5.46.120 INSPECTIONS AND INVESTIGATIONS BY THE CITY

(a) City representatives and/or its designated entity, including Contractors, are authorized to conduct Inspections and Investigations, at random or otherwise, of any city-provided collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business containers for compliance with this Chapter, City may conduct container inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with City's use of Remote Monitoring.

(b) Any person regulated under this Chapter shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Contractor during such Inspections and Investigations. Such Inspections and Investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment; or (iii) access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.

(c) Any records obtained by a City during its Inspections, Remote Monitoring, 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) City representatives, its designated entity, and/or Contractor are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.

(e) City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

(f) Upon finding prohibited container contaminants in a container, the City shall notify the Generator of the violation.

(1) The notice shall, at a minimum, include information regarding the Generator's requirement to properly separate materials into the appropriate containers and may include photographic evidence of the violation and require corrective action.

(2) The notice may be left on the Generator's container, gate, or door at the time the violation occurs, and/or be mailed, e-mailed, or electronically messaged to the Generator.

(3) If the City observes prohibited container contaminants in a Generator's collection container(s), it may dispose of the container's contents.

(4) The City may impose administrative civil penalties on Generators in violation of the prohibited container contaminants requirement in Subdivision (f), above.

5.46.130 ENFORCEMENT OF THIS CHAPTER

(a) **Notice of Violation.** Violation of any provision of this Chapter shall constitute grounds for issuance of a Notice of Violation and assessment of a penalty by the Enforcement Official, in the amounts set forth in subparagraph (b).

(b) **Penalties.** The penalty levels for any violation of this Chapter are as follows:

(1) For a first violation, the amount of the base penalty shall be \$100 per violation.

(2) For a second violation, the amount of the base penalty shall be \$200 per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.

(c) **Appeals Process**

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation in accordance with the procedures set forth in SMMC Sections 1.09.060 *et seq.*

(d) **Nonexclusive Remedies and Penalties.** Other remedies allowed by law may be used in addition to penalties, including civil action or prosecution for violation of any provision of this Chapter as misdemeanor or infraction. The City may also pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

5.46.140 ADOPTION OF RULES AND REGULATIONS

The Director shall adopt rules and regulations consistent with this Chapter to effectuate its purpose and intent.

5.46.150 EFFECTIVE DATE

This Chapter shall be effective commencing on January 1, 2022.

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or

unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

DocuSigned by:

BEA7F21932AB47C...

JOSEPH LAWRENCE
Interim City Attorney

Approved and adopted this 9th day of November, 2021.

DocuSigned by:

823148D999FF4F3

Sue Himmelrich, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2685 (CCS) had its introduction on October 26, 2021 and was adopted at the Santa Monica City Council meeting held on November 9, 2021, by the following vote:

AYES: Councilmembers de la Torre, Brock, Negrete, Davis
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: Councilmember Parra

ATTEST:

DocuSigned by:

F2F85B056A714C3
Denise Anderson-Warren, City Clerk

11/11/2021

Date

A summary of Ordinance No. 2685 (CCS) was duly published pursuant to California Government Code Section 40806.