

ORDINANCE NO. 4304

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, AMENDING SECTIONS OF CHAPTER 62, ARTICLE VI, DIVISIONS 1, 3 AND 4 OF THE CITY CODE REGARDING COMPLIANCE WITH SB 1383 REGULATIONS

WHEREAS, 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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their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; and

WHEREAS, State recycling law, Assembly Bill 341 of 2011 (approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste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; and

WHEREAS, State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling,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; and

WHEREAS, 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 the City of Pomona, 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; and

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires the City of Pomona 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.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 1, Generally, Sec. 62-581 Definitions is hereby amended by adding and amending the following definitions:

Black container has the same meaning as “gray container” in 14 CCR section 18982(a)(28) and shall be used for the purpose of storage and collection of black container waste.

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).

Blue container has the same meaning as in 14 CCR section 18982(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials or source separated blue container organic waste.

CalRecycle means California's Department of Resources Recycling and Recovery and its successor.

California Code of Regulations or *CCR* means the State of California Code of Regulations. CCR references in this article are preceded with a number that refers to the relevant title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

City enforcement official means the city manager or their authorized designee(s) who is/are partially or wholly responsible for enforcing the article.

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 article.

Commercial edible food generator includes a tier one or a tier two commercial edible food generator as defined in this article 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).

Compliance review means a review of records by the city to determine compliance with this article.

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).

Compost means any product resulting from the controlled biochemical decomposition of organic wastes that are source separated from the municipal solid waste stream. Compost includes vegetable, yard, and wood wastes, which have not or are not deemed to contain hazardous material or contaminated in any way, 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 or as otherwise defined in 14 CCR 17896.2(a)(4).

Compostable plastics or compostable plastic means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

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).

C&D means construction and demolition debris.

Designated source separated organic waste facility, as defined in 14 CCR section 18982(14.5), means a solid waste facility that accepts a source separated organic waste collection stream as defined in 14 CCR section 17402(a)(26.6) and complies with one of the following:

- (1) The facility is a “transfer/processor,” as defined in 14 CCR section 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to 14 CCR section 18815.5(f) for organic waste received from the source separated organic waste collection stream.
 - (A) If a transfer/processor has an annual average source separated organic content recovery rate lower than the rate required in Paragraph 1 of this definition for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “designated source separated organic waste facility”.
- (2) The facility is a “composting operation” or “composting facility” as defined in 14 CCR section 18815.2(a)(13), that pursuant to the reports submitted under 14 CCR section 18815.7 demonstrates that the percent

of the material removed for landfill disposal that is organic waste is less than the percent specified in 14 CCR section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in 14 CCR section 17896.5.

- (A) If the percent of the material removed for landfill disposal that is organic waste is more than the percent specified in 14 CCR section 17409.5.8(c)(2) or 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “designated source separated organic waste facility.” For the purposes of this article, the reporting periods shall be consistent with those defined in 14 CCR section 18815.2(a)(49).

Designee means an entity that the city contracts with or otherwise arranges to carry out any of its responsibilities of this article as authorized in 14 CCR section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

Edible food means food intended for human consumption, or as otherwise defined in 14 CCR section 18982(a)(18). For the purposes of this article 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 article 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.

Enforcement action means an action of the city to address non-compliance with this article including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

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 article, 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 the city’s, or its designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the city, or its designee, 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 designee for collection services.

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).

Food facility has the same meaning as in section 113789 of the Health and Safety Code.

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).

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 article 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 article.

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 article and implementation of 14 CCR, division 7, chapter 12 pursuant to 14 CCR section 18982(a)(7).

Food scraps means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other food scraps.

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).

Food-soiled paper is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

Food waste means food scraps, food-soiled paper, and compostable plastics.

Green container has the same meaning as in 14 CCR section 18982(a)(29) and shall be used for the purpose of storage and collection of source separated green container organic waste.

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).

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).

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).

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 article, or as otherwise defined in 14 CCR section 18982(a)(35).

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 article.

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 article 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 article 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 article.

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).

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)

Multi-family residential dwelling or multi-family means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

Non-compostable paper includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR section 18982(a)(41).

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) Public universities (including community colleges) located within the boundaries of the city, including California State University, Pomona.
- (2) County fairgrounds located within the boundaries of the city, including Los Angeles County Fairgrounds.
- (3) State agencies located within the boundaries of the city.

Non-organic recyclables means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR section 18982(a)(43).

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.

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).

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).

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).

Printing and writing papers include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR section 18982(a)(54).

Prohibited container contaminants

- (1) Three-container or three-plus-container collection service (blue container, green container, and black containers): 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 city's green container and/or blue container; and, (iv) excluded waste placed in any container.
- (2) Two-container (green/gray or black) collection service for source separated green container organic waste and mixed materials: Prohibited container contaminants means the following: (i) discarded materials placed in a green container that are not identified as acceptable source separated green container organic waste for the city's green container; (ii) discarded materials placed in the gray or black container that are identified as acceptable source separated green container organic waste, which are to be separately collected in city's green container; and, (iii) excluded waste placed in any container.
- (3) Two-container (blue/gray or black) collection service for source separated recyclable materials and mixed materials: Prohibited container contaminants means the following: (i) discarded materials placed in a blue container that are not identified as acceptable source separated recyclable materials for city's

blue container; (ii) discarded materials placed in the gray or black container that are identified as acceptable source separated recyclable materials, which are to be separately collected in city's blue container; and, (iii) excluded waste placed in any container.

(4) One-container collection service: *Prohibited container contaminants* means excluded waste placed in any container.

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).

Regional agency means regional agency as defined in Public Resources Code section 40181.

Regional or county agency enforcement official means a regional or county agency enforcement official, designated by the city with responsibility for enforcing the article in conjunction or consultation with city enforcement official.

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.

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).

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).

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.

SB 1383 regulations or *SB 1383 regulatory* means or refers to, for the purposes of this article, 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.

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).

Single-family means of, from, or pertaining to any residential premises with fewer than five (5) units.

Solid waste means all types of putrescible, offensive and nonputrescible solid and semisolid and liquid waste, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, animal carcasses, bulky goods, construction and demolition wastes; abandoned vehicles and parts thereof; discarded home and industrial appliances; dewatered, treated or chemically fixed sewage sludge which is not to be deemed to contain hazardous material or substances; manure, vegetable or animal solid or semisolid waste; green waste and recyclable solid waste; or any other material as defined by Public Resources Code § 40191, the state integrated waste management board, or any other entity having jurisdiction. has the same meaning as defined in State Public Resources Code section 40191, which defines solid waste as all putrescible and nonputrescible 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, 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.

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 article, 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/mixed waste or other solid waste for the purposes of collection and processing.

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).

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.

Source separated recyclable materials means source separated non-organic recyclables and source separated blue container organic waste.

State means the State of California.

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).

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 article.

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 article.

Uncontainerized green waste and yard waste collection service or uncontainerized service means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator's house or place of business for collection and transport to a facility that recovers source separated organic waste, or as otherwise defined in 14 CCR section 189852(a)(75).

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).

SECTION 2. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 3, Residential Collection Service Rates and Charges is hereby amended to add Section 62-653 "Requirements for Single Family Generators."

Single-family organic waste generators shall comply with the following requirements except single-family generators that meet the self-hauler requirements in section 62-792 of this article:

- (a) Shall subscribe to city's organic waste collection services for all organic waste generated as described below in section 62-653(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 waste by preventing or reducing their organic waste, managing organic waste on site, and/or using a community composting site pursuant to 14 CCR section 18984.9(c).
- (b) Shall participate in the city's organic waste collection service(s) by placing designated materials in designated containers as described below, and shall not place prohibited container contaminants in collection containers.

(1) A three- and three-plus-container collection service (blue container, green container, and black container)

(A) Generator shall place source separated green container organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and black container waste in the black container. Generators shall not place materials designated for the black container into the green container or blue container.

SECTION 3. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section 62-786 “Requirements for Commercial Businesses.”

Generators that are commercial businesses, including multi-family residential dwellings shall:

(a) Subscribe to city’s three-, three-plus, two-, or one-container collection services and comply with requirements of those services as described below in section 62-786(b), except commercial businesses that meet the self-hauler requirements in section 62-792 of this article. The City of Pomona 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 62-792 of this article, participate in the city’s organic waste collection service(s) by placing designated materials in designated containers as described below.

(1) A three- and three-plus-container collection service (blue container, green container, and black container)

(A) Generator shall place Source Separated green container organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and black container waste in the black container. Generator shall not place materials designated for the black container into the green container or blue container.

(B) Generator shall place source separated green container organic waste, except food waste, in the green container; source separated recyclable materials in the blue container; and mixed waste, including food waste, in the black container. Generator shall not place materials designated for the green containers or blue containers in the black containers.

(2) Two-container collection service (green container/black container system or blue container/black container system)

- (A) Green container/black containers: generator shall place only source separated green container organic waste in a green container. Generator shall place all other materials (mixed waste) in a black container.
 - (B) Blue container/black containers: generator shall place only source separated recyclable materials in a blue container. Generator shall place all other materials (mixed waste) in a black container.
- (3) An unsegregated single container (one-container) collection service
 - (A) Generator shall place all materials (mixed waste) in a black container.
- (c) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with city's collection service or, if self-hauling, per the commercial businesses' instructions to support its compliance with its self-haul program.
- (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 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 the 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 pursuant to 14 CCR section 18984.9(b).

- (f) To the extent practical through education, training, inspection, and/or other measures, excluding multi-family residential dwellings, prohibit 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, per the commercial businesses' instructions to support its compliance with its self-haul program.
- (g) Excluding multi-family residential dwellings, periodically inspect blue containers, green containers, and black containers for contamination and inform 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 employees, contractors, tenants, 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 education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from black container waste or mixed waste container (when applicable) and the location of containers and the rules governing their use at each property.
- (j) Provide or arrange access for the city or its agent to their properties during all inspections conducted to confirm compliance with the requirements of this article.
- (k) At commercial business's option and subject to any approval required from the city, implement a remote monitoring program 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 or black containers subject to written notification to or approval by the city or its designee.
- (l) If a commercial business wants to self haul, meet the self-hauler requirements in section 62-792.
- (m) Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 CCR section 18984.9(c).
- (n) Commercial businesses that are tier one or tier two commercial edible food generators shall comply with food recovery requirements section 62-789.

SECTION 4. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section 62-787 "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 organic waste requirements of this article if the commercial business provides documentation that the business generates below a certain amount of organic waste material as described in section 62-787(a)(2) below. Commercial businesses requesting a de minimis waiver shall:

(1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in section 62-787(2)(A) below.

(2) Provide documentation that either:

(A) The commercial business' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than 20 gallons per week per applicable container of the business' total waste; or,

(B) The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than 10 gallons per week per applicable container of the business' total waste.

(3) Notify the city if circumstances change such that commercial business's organic waste exceeds 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: The city may waive a commercial business' or property owner's obligations (including multi-family residential dwellings) to comply with some or all of the recyclable materials and/or organic waste 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 organic waste collection requirements.

A commercial business or property owner may request a physical space waiver through the following process:

(1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(2) Provide documentation that the premises lacks adequate space for blue containers and/or 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.

SECTION 5. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section **62-789 “Requirements for Commercial Edible Food Generators.”**

- (a) Tier one commercial edible food generators must comply with the requirements of this section 62-789 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 the 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 January 1 of each year commencing no later than January 1, 2023 for tier one commercial edible food generators and January 1, 2026 for tier two commercial edible food generators, provide an annual food recovery report to the city that includes the following information:
 - (A) How much food do these organizations and services currently recover?
 - (B) What kinds of food do these organizations and services accept for food recovery? (e.g. produce, fresh grocery, cold prepared foods, hot prepared foods, etc.)
- (d) Nothing in this article 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).

SECTION 6. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section **62-790 "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.
 - (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 of Pomona 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 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 January 1st.
- (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.

SECTION 7. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section **62-791 "Requirements for Haulers and Facility Operators."**

(a) Requirements for Haulers

(1) Exclusive franchised haulers, non-exclusive franchised haulers, permitted haulers, and licensed 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) Through written notice to the city annually on or before January 15th, identify 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.

(B) Transport source separated recyclable materials, source separated green container organic waste, and mixed waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 CCR, Division 7, chapter 12, article 2.

(C) 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, section 62-793 and city's C&D ordinance.

(2) Exclusive franchised haulers, non-exclusive franchised haulers, permitted haulers, and licensed haulers authorization 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.

(b) Requirements for Facility Operators and Community Composting Operations

(1) Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon city request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the city shall respond within 60 days.

(2) Community composting operators, upon the city's request, shall provide information to the city to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting operation. Entities contacted by the city shall respond within 60 days.

SECTION 8. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section **62-792 "Self-Hauler Requirements."**

- (a) Self-haulers shall source separate all recyclable materials and organic waste (materials that the city otherwise requires generators to separate for collection in the city's organics and recycling collection program) generated on-site from solid waste in a manner consistent with 14 CCR sections 18984.1 and 18984.2, or shall haul organic waste to a high diversion organic waste processing facility as specified in 14 CCR section 18984.3.**
- (b) 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 organic waste to a high diversion organic waste processing facility.**
- (c) 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 city. 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.**
- (d) A residential organic waste generator that self hauls organic waste is not required to record or report information in section 62-792(c) and (d).**

SECTION 9. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section **62-793 "CalGreen Recycling Requirements."**

- (a) Persons applying for a permit from the city for new construction and building additions and alternations shall comply with the requirements of this section and all required components of the California Green Building Standards Code, 24 CCR, part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the city. If the requirements of CALGreen are more stringent then the requirements of this section, the CALGreen requirements shall apply.**

Project applicants shall refer to city's building and/or planning code for complete CALGreen requirements.

(b) For projects covered by CALGreen, the applicants must, as a condition of the city'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 are identified for the storage and collection of blue container and green container materials, consistent with the three-, three-plus, or two-container collection program offered by the city, or comply with provision of adequate space for recycling for multi-family and commercial premises pursuant to sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
- (2) New commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of blue container and green container materials, consistent with the three-, three-plus, or two-container collection program offered by the city, or shall comply with provision of adequate space for recycling for multi-family and commercial premises pursuant to sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.
- (3) 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, division 7, section 62-871 to section 62-899 of city's municipal code, and all written and published city policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

SECTION 10. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial, Industrial and Institutional Service is hereby amended to add Section 62-794 "Inspections and Investigations."

- (a) City representatives and/or its designated entity, including designees are authorized to conduct inspections and investigations, at random or otherwise, of any 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 article 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 the city 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 the city's employee or its designated entity/designee 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 article described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) access to records for any inspection or investigation is a violation of this article and may result in penalties described.
- (c) Any records obtained by the city 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) City 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 article, 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.

SECTION 11. That Pomona City Code, Chapter 62, Article VI, Solid Waste, Division 4, Multifamily Residential, Commercial Industrial, and Institutional Service is hereby amended to add Section 62-795 "Enforcement."

- (a) Violation of any provision of this article shall constitute grounds for issuance of a notice of violation and assessment of a fine by a city enforcement official or representative. Enforcement actions under this section are issuance of an administrative citation and assessment of a fine. The city'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 article and any rule or regulation adopted pursuant to this article, except as otherwise indicated in this article.
- (b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. The city may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The city 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 the city's staff and resources.
- (c) Responsible Entity for Enforcement

(1) Enforcement pursuant to this article may be undertaken by the city enforcement official, which may be the city manager or their designated entity, legal counsel, or combination thereof.

(2) Enforcement may also be undertaken by a regional or county agency enforcement official, designated by the city in consultation with city enforcement official.

(A) City enforcement official(s) (and regional or county agency enforcement official, if using) will interpret this article; determine the applicability of waivers, if violation(s) have occurred; implement enforcement actions; and, determine if compliance standards are met.

(B) City enforcement official(s) (and regional or county agency enforcement official, if using) may issue notices of violation(s).

(d) Process for Enforcement

(1) City enforcement officials or regional or county enforcement officials and/or their designee will monitor compliance with the article randomly and through compliance reviews, route reviews, investigation of complaints, and an inspection program. Section 62-794 establishes the city's right to conduct inspections and investigations.

(2) City may issue an official notification to notify regulated entities of its obligations under the article.

(3) With the exception of violations of generator contamination of container contents, city 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, city shall commence an action to impose penalties, via an administrative citation and fine, pursuant to the city's policy/ordinance/guidelines or requirements contained below in subsection (k), table 1, List of Violations.

Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the city or if no such address is available, to the owner at the address of the dwelling or commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Penalty Amounts for Types of Violations

The penalty levels are as follows:

- (1) For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
- (2) For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
- (3) For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

(f) Factors Considered in Determining Penalty Amount

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

- (1) The nature, circumstances, and severity of the violation(s).
- (2) The violator's ability to pay.
- (3) The willfulness of the violator's misconduct.
- (4) Whether the violator took measures to avoid or mitigate violations of this chapter.
- (5) Evidence of any economic benefit resulting from the violation(s).
- (6) The deterrent effect of the penalty on the violator.
- (7) Whether the violation(s) were due to conditions outside the control of the violator.

(g) Compliance Deadline Extension Considerations

The city may extend the compliance deadlines set forth in a notice of violation issued in accordance with this section 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;
- (2) Delays in obtaining discretionary permits or other government agency approvals; or,
- (3) Deficiencies in organic waste recycling infrastructure or edible food recovery capacity and the city is under a corrective action plan with CalRecycle pursuant to 14 CCR section 18996.2 due to those deficiencies.

(h) 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 city's procedures in the city's codes for appeals of administrative citations. Evidence may be presented at the hearing. The city will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(i) Education Period for Non-Compliance

Beginning January 1, 2022 and through December 31, 2023, city will conduct inspections, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance, and if city determines that an organic waste generator, self-hauler, hauler, tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this article 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 the city determines that an organic waste generator, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this article, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action pursuant to this section, as needed.

(k) Enforcement Table

Table 1. List of Violations

<u>Requirement</u>	<u>Description of Violation</u>
<u>Commercial Business and Commercial Business Owner Responsibility Requirement</u>	<u>Commercial business fails to provide or arrange for organic waste collection services consistent with the city's requirements and as outlined in this article, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color.</u>
<u>Organic Waste Generator Requirement</u>	<u>Organic waste generator fails to comply with requirements adopted pursuant to this article for the collection and recovery of organic waste.</u>
<u>Hauler Requirement Section</u>	<u>A hauler providing residential, commercial or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as prescribed by this article.</u>
<u>Hauler Requirement</u>	<u>A hauler providing residential, commercial, or industrial organic waste collection service fails to obtain applicable approval issued by the city to haul organic waste as prescribed by this article.</u>
<u>Hauler Requirement</u>	<u>A hauler fails to keep a record of the applicable documentation of its approval by the city, as prescribed by this article.</u>
<u>Self-Hauler Requirement</u>	<u>A generator who is a self-hauler fails to comply with the requirements of 14 CCR section 18988.3(b).</u>
<u>Commercial Edible Food Generator Requirement</u>	<u>Tier one commercial edible food generator fails to arrange to recover the maximum amount of its edible food that would otherwise be disposed by establishing a contract or written agreement with a food recovery organization or food recovery service and comply with section 62-789 commencing Jan. 1, 2022.</u>
<u>Commercial Edible Food Generator Requirement</u>	<u>Tier two commercial edible food generator fails to arrange to recover the maximum amount of its edible food that would otherwise be disposed by establishing a contract or written agreement with a food recovery organization or food recovery service and comply with section 62-789 commencing Jan. 1, 2024.</u>

**Commercial Edible Food
Generator Requirement**

Tier one or tier two commercial edible food generator intentionally spoils edible food that is capable of being recovered by a food recovery organization or food recovery service.

**Organic Waste Generator,
Commercial Business Owner,
Commercial Edible Food
Generator, Food Recovery
Organization or Food
Recovery Service**

Failure to provide or arrange for access to an entity's premises for any inspection or investigation.

**Recordkeeping Requirements
for Commercial Edible Food
Generator**

Tier one or tier two commercial edible food generator fails to keep records, as prescribed by section 62-789.

**Recordkeeping Requirements
for Food Recovery Services
and Food Recovery
Organizations**

A food recovery organization or food recovery service that has established a contract or written agreement to collect or receive edible food directly from a commercial edible food generator pursuant to 14 CCR section 18991.3(b) fails to keep records, as prescribed by section 62-790.

SECTION 12. CEQA. The City Council determines that the adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to the following provisions of the CEQA Guidelines, 14 California Code of Regulations, Chapter 3: this Ordinance is exempt under CEQA Guidelines Section 15378(b)(5) in that it is not a "project" under CEQA, and will not result in direct or indirect physical changes in the environment.

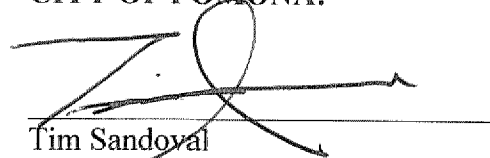
SECTION 13. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have adopted this Ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 14. The City Clerk shall certify to the passage of this Ordinance, and shall cause same to be posted as required by law.

SECTION 15. This ordinance shall be effective 30 days after adoption.


PASSED, APPROVED AND ADOPTED this 2nd day of August, 2021.

CITY OF POMONA:




Tim Sandoval
Mayor

APPROVED AS TO FORM:



Sonia Carvalho
City Attorney

ATTEST:

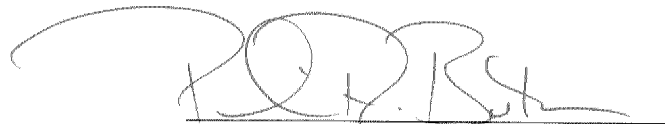


Rosalia A. Butler, MMC
City Clerk

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on July 19, 2021 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on August 2, 2021 by the following vote:

AYES:	Garcia, Lustro, Nolte, Ontiveros-Cole, Preciado, Torres, Sandoval
NOES:	None
ABSENT:	None
ABSTAIN:	None



Rosalia A. Butler, MMC
City Clerk