

ORDINANCE NO. 1837

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, REPEALING CHAPTER 18.20 OF THE GARDENA MUNICIPAL CODE, ADOPTING A NEW UPDATED CHAPTER 18.20 AND UPDATING CHAPTER 2.60 OF THE GARDENA MUNICIPAL CODE TO INCORPORATE PROVISIONS OF SENATE BILL 1383 AND REGULATIONS ADOPTED BY CALRECYCLE

WHEREAS, Senate Bill 1383 of 2016 ("SB 1383") 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, and;

WHEREAS, on November 3, 2020, the Department of Resources Recycling & Recovery (CalRecycle) adopted organic waste reductions regulations contained in Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR, and;

WHEREAS, the foregoing laws and regulations require that the provisions of the Gardena Municipal Code relating to the solid waste be substantially rewritten.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN, AS FOLLOWS:

SECTION 1. Chapter 8.20 of the Gardena Municipal Code is hereby replaced in its entirety.

SECTION 2. Chapter 8.20 is hereby adopted and added to the Gardena Municipal Code to read as follows:

Chapter 8.20 SOLID WASTE AND RECYCLABLE COLLECTION AND DISPOSAL

Sections:

- 8.20.010 Purpose.
- 8.20.020 Definitions.
- 8.20.030 Authorization required to collect.
- 8.20.035 Requirements for facility operators and community composting operations.
- 8.20.040 Licensing.
- 8.20.050 Revocation and suspension of franchise, license or permit.
- 8.20.060 Solid waste disposal and diversion.
- 8.20.065 Special events and venue facility operations.
- 8.20.070 Solid waste charges – Payment.
- 8.20.080 Charges – Nonpayment.
- 8.20.090 Disposal and processing.
- 8.20.100 Collection vehicles.
- 8.20.110 Containers/bins.

- 8.20.120 Other prohibited activities.
- 8.20.130 Time and frequency of collections.
- 8.20.140 Noise.
- 8.20.150 Indemnification and insurance.
- 8.20.160 Reporting requirements.
- 8.20.170 Collection requirements.
- 8.20.171 Requirements for residential premises (including multifamily premises with cart service) service generators.
- 8.20.172 Requirements for commercial premises (including multifamily premises with shared bin service).
- 8.20.173 Self-hauler requirements.
- 8.20.174 Waivers for generators.
- 8.20.180 Violations – Misdemeanors.
- 8.20.190 Enforcement
- 8.20.200 Requirements for commercial edible food generators.
- 8.20.210 Requirements for food recovery organizations and services.
- 8.20.220 Inspections and investigations by city pertaining to the requirements of SB 1383 contained with the city's municipal code.

8.20.010 Purpose.

The collection and disposal of solid waste is a matter requiring the control and regulation by the city in the manner set forth in this chapter in order to protect the public peace, health, safety and welfare of the citizens. (Ord. 1497 § 1 (part), 1996)

8.20.020 Definitions.

For the purpose of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as set forth below. Words and phrases not ascribed a meaning by this chapter shall have the meaning ascribed by Public Resources Code Section 40105 et seq.

"Applicable law" means all laws, statutes, rules, regulations, guidelines, permits, actions, determinations, orders, or requirements of the United States, state of California, county of Los Angeles, city, regional or local government authorities, agencies, boards, commissions, courts or other bodies having applicable jurisdiction, including AB 939 and SB 1383.

"Back-haul" means generating and transporting source separated recyclable materials and/or source separated 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).

"Bin" means a rigid container with hinged lids and wheels with a capacity of at least one (1) cubic yard and less than ten (10) cubic yards.

"Blue container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and collection of source separated recyclable materials.

"Brown container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and collection of source separated food waste.

"Bulky items" means solid waste that cannot and/or would not typically be accommodated within a cart including specifically: furniture (including chairs, sofas, mattresses, and rugs); and appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); residential wastes (including wood waste, tree branches, scrap wood, debris from building remodeling, rocks, sod and earth); electronic equipment (including stereos, televisions, computers and monitors, VCRs, microwaves and other similar items commonly known as "brown goods" and "e-waste"); universal waste ("u-waste"), and clothing. Bulky items do not include car bodies, tires, construction and demolition debris or items requiring more than two persons to remove. Other items not specifically included or excluded above will be collected by the solid waste collection operator provided that they are not more than eight feet in length, four feet in width, or more than 150 pounds. In the event a question ever arises as to whether a specific item or category of items meets the definition of bulky items, city shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the parties

"California Code of Regulations" or "CCR" means the state of California Code of Regulations. CCR references in this city municipal code are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

"CalRecycle" means the state of California's Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board or CIWMB.

"Cart" means a polyethylene wheeled container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 30- and no greater than 101- gallons.

"City" means city of Gardena, California, a municipal corporation, and all the territory lying within the municipal boundaries of city.

"City manager" means the city manager of city. The city manager or his or her designee is the authorized agent of city in enforcing the terms of this municipal code.

"Collect", "collected" or "collection" means to take physical possession, transport, and remove solid waste within and from city. "Commercial collection" refers to services performed at or for commercial premises.

"Commercial edible food generators" includes tier one commercial edible food generators and tier two commercial edible food generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators.

"Commercial premises" means premises upon which business activity is conducted, and any other premises not defined as residential premises, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding residential premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property.

"Composting" or "compost" (or any variation thereof) includes a controlled biological decomposition of organic waste yielding a safe and nuisance free compost product.

"Compostable plastics" or "compostable plastic" means plastic materials that meet the ASTM D6400 standard for compostability.

"Construction and demolition debris" or "C&D material," means any combination of inert building materials and solid waste resulting from construction, remodeling, repair, cleanup, or demolition operations as defined in California Code of Regulations, Title 22 Section 66261.3 et seq. This term includes, but is not limited to, asphalt, concrete, Portland cement concrete, brick, lumber, gypsum wallboard, cardboard, and other associated packaging; roofing material, ceramic tile, carpeting, plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

"Construction work" means construction, remodeling, repair, demolition or deconstruction of building, other structures, roads, parking lots and similarly paved or covered surfaces.

"Containers" shall mean any and all types of solid waste receptacles, including cans, carts, compactors, bins, roll-off boxes, and customer-provided receptacles.

"Contractor" means any person or entity holding or required to hold a contractor's license of any type under the laws of the state of California or who performs, whether as a contractor, subcontractor, or building owner, any construction, demolition, remodeling, or landscaping service relating to building or accessory structures in the city.

"Designated waste" means non-hazardous waste which may pose special disposal problems because of its potential to contaminate the environment, and which may be disposed of only in Class II disposal sites or Class III disposal sites pursuant to a variance issued by the California Department of Health Services. Designated waste consists of those substances classified as designated waste by the state, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

"Discarded materials" are a form of solid waste and shall be regulated as such. For purposes of this municipal code, material is deemed to have been discarded, without regard to whether it is destined for recycling or disposal, and whether or not it has been separated from other solid wastes, in all cases where a fee or other compensation, in any form or amount, is directly or indirectly solicited from, or, levied, charged, or otherwise imposed on, or paid by, the generator or customer in exchange for handling services. As used herein, handling services include, without limitation, the collection, removal, transportation, delivery, and processing and/or disposal of the material. Discarded materials do not include edible food that is recovered for human consumption and is not discarded. Discarded materials include source separated recyclable materials, source separated organic waste, food waste, gray/black container waste or mixed waste, and C&D once the materials have been placed in containers for collection.

"Disposal" or "disposed" means the ultimate disposition of solid waste at a landfill or otherwise in full regulatory compliance.

"Divert" or "diversion" (or any variation thereof) means to prevent discarded materials from disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, recycling, composting, anaerobic digestion or other method of processing, subsequent to the

provisions of AB 939 and SB 1383. Diversion is a broad concept that is to be inclusive of material handling and processing changes that may occur over time including, but not limited to, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce disposal risk and/or are for other reasons deemed desirable by the city.

"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.

"Electronic waste" or "e-waste" means electronic equipment and includes, but is not limited to, stereos, televisions, computers and computer monitors, VCRs, cellular phones, fax machines, household copiers, computer printers, other items with electric plugs that are banned from landfilling, and other similar items commonly known as "brown goods."

"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.

"Environmental law" means any federal and state statute, county, local and city ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions or permits, licenses and other operating authorizations relating to (i) pollution or protection of the environment, including natural resources, (ii) exposure of persons, including employees, to hazardous substances or other products, raw materials, chemicals or other substances, (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities, or (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

"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, 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 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 edible food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food recovery organization” means an entity that primarily 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, including, but not limited to:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization; and,
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

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 municipal code.

“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).

“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” means 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 source-separated food scraps, food-soiled paper, and compostable plastics. Food waste is a subset of source separated green container organic waste (source separated organic waste).

“Franchise” means the right and privilege: (1) to make arrangements for the collection of and to collect; (2) to transport to landfills, processing facilities, material recovery facilities, transformation facilities or other licensed solid waste management facilities; and/or (3) to recycle from collected solid waste and recyclable solid wastes all solid waste, including

recyclable solid waste and organic waste, kept, generated and/or accumulated within the city. Any franchise is subject to all of the provisions and to any right held by any other solid waste enterprise which may hold rights pursuant to Public Resources Code Section 49520.

"Generator" means any person whose act first causes discarded materials to become subject to regulation under federal, state, or local regulations.

"Good faith effort" means the documented efforts of a franchisee, firm, person, or entity to meet its requirements to divert waste from disposal to the maximum extent practicable as stipulated by its city-approved permit, franchise, plan or other approved mechanism.

"Green waste" means tree trimmings, wood stumps, grass cuttings, dead plants, leaves, branches, flowers, plant stocks, and dead trees (not more than six (6) inches in diameter or 48 inches in length) and similar materials. Green waste is a subset of organic waste.

"Gray/black container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and collection of gray/black container waste or mixed waste.

"Gray/black container waste" means solid waste that is collected in a gray/black container that is part of a three-container organic waste collection service that prohibits the placement of organic waste in the gray/black container as specified in 14 CCR Sections 18984.1(a) and (b) or as otherwise defined in 14 CCR Section 17402(a)(6.6). Gray/black container waste includes carpet and textiles.

"Green container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and collection of source separated organic waste.

"Hauler" means any person, commercial or public entity which collects, hauls, or transports solid waste for a fee by use of any means, including, but not limited to, a dumpster truck, roll-off truck, side-load, front-load, or rear-load garbage truck, or a trailer.

"Hazardous substance" shall mean any of the following: (a) any substance defined, regulated or listed (directly or by reference) as "hazardous substances", "hazardous materials", "hazardous wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601, et seq.; (ii) the Hazardous Substances Transportation Act, 49 USC Section 5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901, et seq.; (iv) the Clean Water Act, 33 USC Section 1251, et seq.; (v) California Health and Safety Code Sections 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7401, et seq.; and (vii) California Water Code Section 13050; (b) any amendments, rules, or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereinafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste, or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state, and local environmental laws currently existing or hereinafter enacted, including without limitation, friable asbestos, polychlorinated biphenyl ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

"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).

"Household hazardous waste" or "HHW" means material used in residences that may threaten human health or the environment when improperly discarded and usually has one or more of the following characteristics; flammable, toxic, corrosive, and/or reactive.

"Incompatible material" or "incompatibles" mean(s) human-made inert material, including, but not limited to, glass, metal, plastic, and also includes organic waste that the receiving end-user, facility, operation, property, or activity is not designed, permitted, or authorized to perform organic waste recovery activities as defined in 14 CCR Section 18983.1(b), or as otherwise defined by 14 CCR Section 17402(a)(7.5).

"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 municipal code.

"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 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 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 municipal code.

"Materials recovery facility" means a permitted solid waste facility where solid wastes or recyclable materials are sorted or separated for the purposes of recycling, processing or composting.

"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). "Mixed waste" means mixed waste organic collection stream.

"Mulch" means a layer of material applied on top of soil, and, for the purposes of this municipal code, mulch shall conform with the following conditions, or conditions as otherwise specified in 14 CCR Section 18993.1(f)(4):

A. Meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land applications specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).

B. Was produced at one or more of the following types of Facilities:

1. A compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under Division 7 of Title 14 of the CCR, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10);
2. A transfer/processing facility or transfer/processing operation as defined in 14 CCR Section 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR, Division 7, Chapter 12; or,
3. A solid waste landfill as defined in PRC Section 40195.1 that is permitted under 27 CCR, Division 2.

"Multi-unit residential premises" means any building and/or structure, or portion thereof, in city, which is used for residential housing purposes, irrespective of whether residents are transient, temporary or permanent, and having five (5) or more self-contained living units. "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-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). Non-organic recyclables are a subset of source separated recyclable materials.

"Nonseparated solid waste" means that solid waste which may contain recyclable materials which have not been source separated by the customer.

"Operator" means a person authorized by the city, pursuant to this chapter, to operate a disposal site, transfer station or processing facility or collection system within the city, including those persons authorized by Public Resources Code Section 49520. "Operators" are city-authorized haulers.

"Organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, green 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 in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

"Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the state of California, the county of Los Angeles, towns, cities, and special purpose districts.

"Pre-collection diversion programs" means those diversion efforts that involve separation of recyclables from refuse by the commercial and/or industrial premises, and storage in a

separate container for collection by solid waste franchisees and/or third-party recyclers for recycling or reuse. No third-party recyclers may charge or levy a fee for collection; but no law shall prohibit the sale or donation of recyclables to a third party. Any recyclable wastes for collection by a third party cannot contain more than ten percent disposable residue by weight.

"Premises" means any land or building in city where solid waste is generated or accumulated.

"Process", "processed" or "processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

"Prohibited container contaminants" means the following: (i) discarded materials placed in the blue container that are not identified as acceptable source separated recyclable materials; (ii) discarded materials placed in the green container that are not identified as acceptable source separated green container organic waste; (iii) discarded materials placed in the brown container that are not identified as acceptable source separated brown container food waste; (iv) discarded materials placed in the gray/black container that are acceptable source separated recyclable materials, source separated green container organic waste, and/or source separated brown container food waste, to be placed in green containers, brown containers, and/or blue containers; and (iv) excluded waste placed in any container.

"Recyclable materials" means materials, by-products, or components of such materials set aside, handled, packaged, or offered for collection in a manner different from solid waste for the purpose of recycling.

"Recyclable solid waste" means recyclable materials which have been source separated before having been discarded into the solid waste stream. Recyclable solid waste is a part of the solid waste stream which can be reused or processed into a form suitable for reuse through reprocessing or remanufacture.

"Recycle" or "Recycling" means the process of collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning 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. Recycling includes processes deemed to constitute a reduction of landfill disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or transformation as defined in Public Resources Code Section 40201. "Recycling container" shall have the same meaning as blue container, green container, and/or brown container for the temporary accumulation and collection of source separated recyclable and organic waste.

"Refuse" means solid waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, §40191 and regulations promulgated hereunder. Excluded from the definition of refuse are excluded waste, C&D, source separated recyclable materials, source separated organic waste, and radioactive waste. Notwithstanding any provision to the contrary, refuse may include de minimis volumes or concentrations of waste of a type and amount normally found in residential refuse after implementation of programs for the safe collection, recycling, treatment, and disposal of household hazardous waste in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid

waste includes salvageable materials only when such materials are included for collection in a refuse container not source separated from refuse at the site of generation.

"Renewable natural gas" or "RNG" means gas derived from organic waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover organic waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

"Residential" refers to services performed at and for residential premises, which include both single-unit and multi-unit residential premises.

"Residential collection" means collection from residential premises.

"Residential premises" means premises upon which dwelling units exist, including, without limitation, single-unit and multi-unit residential premises, apartments, boarding or rooming houses, condominiums, mobile homes, efficiency apartments, and second units. Notwithstanding any provision to the contrary herein, in the Gardena municipal code, premises upon which the following uses are occurring shall not be deemed to be residential premises, and rather shall be deemed to be commercial premises: assisted living facilities, convalescent homes, dormitories, extended stay motels, group residential facilities, group care facilities, hotels, motels, and any other businesses not specifically listed at which residency is transient in nature and hence should be classified as commercial premises as determined by city on a case by case basis.

"Roll-off box" means solid waste collection containers of 10-yards or larger.

"Roll-off service" means those commercial bins supplied by operator for the temporary storage of solid waste resulting from temporary activities on a premise, such as the demolition or construction of a building.

"Scavenging" shall mean the uncontrolled pickup of solid waste from any location within the city by an unauthorized collector.

"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. For the purposes of this municipal code, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): organic waste reductions regulations developed by CalRecycle and adopted on November 3, 2020 that created Chapter 12 of 14 CCR, Division 7 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 they have generated to another person. Self-hauler also includes a landscaper, or a person who back-hauls waste. Back-haul means generating and transporting recyclable materials or 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-unit residential premises" means each premises used for or designated as a single-

unit residential dwelling, including each unit of a condominium project, duplex, triplex, townhouse, apartment building, or mobile home park in which each premises receives individual solid waste collection service using carts and consists of four (4) dwelling units or less per legal parcel.

"Solid waste" means all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including refuse, construction and demolition debris, bulky items, recyclable materials, and organic waste, or any combination thereof which are permitted to be disposed of in a Class III landfill, and which are included in the definition of "non-hazardous solid waste" set forth in the California Code of Regulations. "Solid waste" means all solid wastes generated by residential, commercial, and industrial sources, and all solid waste generated at construction and demolition sites, and at treatment works for water and wastewater, which are collected and transported under the authorization of the city or are self-hauled by generators. Solid waste does not include agricultural crop residues, mining waste and fuel extraction waste, forestry wastes, ash from industrial boilers, furnaces and incinerators or hazardous substance, any waste which is not permitted to be disposed of at a Class III landfill and which fall within the definition of "nonhazardous solid waste" set forth in Title 23, Chapter 15, Section 2523(a) of the California Code of Regulations as amended or designated Class II wastes.

"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 of 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 this municipal code, 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 gray/black container waste/mixed waste and other solid waste for the purposes of collection and processing.

"Source separated blue container organic waste" or "blue container waste" means source separated organic waste 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 14 CCR Section 18982(a)(43); or as otherwise defined by 14 CCR Section 17402(a)(18.7). Source separated blue container organic waste is a subset of organic waste.

"Source separated brown container waste" means source separated food waste that can be placed in a brown container that is specifically intended for the separate collection.

"Source separated green container 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 green container organic waste is a subset of organic waste.

"State" means the state of California.

"State required percentage" in relation to the diversion of construction and demolition waste

means that percentage of diversion required by Part 11, California Green Building Standards Code, as adopted by the city of Gardena.

“Tier one commercial edible food generator” means a commercial edible food generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Supermarket.
- B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
- C. Food service provider.
- D. Food distributor.
- E. 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 municipal code.

“Tier two commercial edible food generator” means a commercial edible food generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large venue.
- E. Large event.
- F. 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.
- G. A local education agency 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 municipal code.

“Transfer station or processing facilities” means those facilities utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid waste, or to transfer the solid waste directly from smaller to larger vehicles for transport, and those facilities utilized for transformation.

“Universal waste” or “u-waste” means any of the following waste that are conditionally exempt from classification as hazardous wastes pursuant to Title 22 of the California Code of Regulations (22 CCR), § 66261.9: (i) batteries as described in 22 CCR § 66273.2; (ii) thermostats as described in 22 CCR § 66273.4; (iii) lamps as described in 22 CCR § 66273.5; and (iv) cathode ray tube materials as described in 22 CCR § 66273.6.

“Vehicle” or “collection vehicle” means any truck, trailer or other conveyance or equipment including bins, used to collect, haul or transport solid waste or recyclable material.

“Waste stream” means any solid waste or other material which has been entered into a process whereby its ultimate disposition results in depository into a certified landfill. (Ord. 1797 § 1, 2018; Ord. 1653 § 1, 2004; Ord. 1649 § 2, 2003; Urg. Ord. 1648 § 2, 2003; Ord. 1497 § 1 (part), 1996)

8.20.030 Authorization required to collect.

No person shall collect, carry, convey or transport solid waste from or at any location within the city, unless such person is authorized to do so by a franchise granted by the council pursuant to subsection A of this section, or is otherwise exempt from the franchise requirement pursuant to subsection B of this section.

A. The council may award one or more franchises, for the collection of solid wastes from all or a portion of the residential and commercial premises in the city. Franchises shall be granted on such terms and conditions as the council shall establish in its sole discretion. At a minimum, franchises shall provide:

1. The franchisee shall comply with the provisions of this chapter;
2. The franchisee shall be required to protect, defend, indemnify and hold the city harmless from any liability, on a form provided by the city attorney in connection with granting of this franchise;
3. The franchisee shall be required to cooperate with the city in solid waste generation studies and the preparation of waste stream audit, and to submit information required by city to meet the reporting requirements of AB 939 and SB 1383 and to implement measures consistent with the city’s source reduction and recycling element in order for the city to reach the diversion and other goals mandated by the California Integrated Waste Management Act of 1989 (AB 939) and the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations (SB 1383), as it may be amended from time to time;
4. The franchisee shall be required to pay a franchise fee in an amount to be determined by ordinance or resolution of the council; and
5. The franchisee shall not transfer, sell, sublet or assign the franchise, nor shall any of the rights or privileges therein be leased, assigned, sold in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, either by act of the franchisee or otherwise, unless authorization for such transfer, sale, subletting or assignment is obtained from the council.

B. Franchisees, permittees, and licensees providing residential, multifamily, 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:

1. Through written notice to the city annually on or before January 1, 2022 identify the facilities to which they will transport organic waste including facilities for source separated

recyclable materials, source separated blue container organic waste, source separated green container organic waste, source separated brown container waste, and mixed waste.

2. Transport source separated recyclable materials, source separated blue container organic waste, source separated green container waste, source separated brown container 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.

3. 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 construction and demolition debris in a manner that complies with 14 CCR Section 18989.1, and the Gardena Municipal Code.

C. Franchisees, permittees, and licensees 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. D. Exceptions. Notwithstanding subsection A of this section, a person may collect solid waste in the city without a franchise if that person:

1. Is an officer, employee or agent of the city in the course of official duty;
2. Is the owner or occupant of any premises within the city; provided, that the owner or occupant may transport only solid waste generated on the premises to a site where disposal or processing is permitted pursuant to applicable law and only on an occasional basis; or
3. Is a self-hauler, provided they comply with the provisions of section 8.20.173.

8.20.035 Requirements for facility operators and community composting operations.

A. No person shall operate a transfer station or processing facility, a material recovery facility or any other facility covered under the provisions of the Public Resources Code Section 40100 through Section 44017, from or at any location within the city, unless such person is authorized to do so by a host agreement granted by the council pursuant to subsection B of this section.

B. The council may award one or more host agreements, for the operation of a transfer station or processing facility, material recovery facility, or other facility covered under the provisions of the Public Resources Code Section 40100 through Section 44017.

C. The facility operator/owner shall comply with the provisions of this chapter, SB 1383, as well as those provisions set forth in the Public Resources Code.

D. The facility operator/owner shall be required to pay a host fee in an amount to be determined by resolution or ordinance of the council.

E. All facilities subject to the provisions of this chapter shall be subject to the issuance of a conditional use permit as specified in Title 18 of the Gardena Municipal Code.

F. Each person who, on the effective date of the ordinance enacting this chapter, is conducting a business under an existing license or permit issued by the city that is now required by this section to obtain a host agreement shall do so on or before the effective date of the ordinance enacting this provision or at such later date as may be established by the city council.

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.

H. Community composting operators, upon city 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.

8.20.040 Licensing.

Each operator exercising rights under this chapter, in addition to obtaining a franchise from the council, shall possess a current city business license and shall display a current city-issued decal on each collection vehicle operating within the city. (Ord. 1497 § 1 (part), 1996)

8.20.050 Revocation and suspension of franchise, license or permit.

A. Any franchise issued under the provisions of this chapter is subject to revocation or suspension for cause.

B. Should the city manager determine that there is sufficient reason to authorize the suspension or revocation of a franchise, the city manager shall revoke or suspend the franchise by issuing a written order to the operator clearly stating the reasons for such suspension or revocation.

1. Unless the operator supplies proof of correction to the city manager within the timeframes more fully described in any executed agreement entered into between the city and operator, and dependent upon the nature of the action the permit or franchise may be revoked or suspended by the city manager. For actions that may be cured within a timeframe subject to a written order, the order shall be mailed by certified mail to the operator.

2. Should any franchise be revoked or suspended in accordance with this chapter, said operator shall have the right to appeal the decision to the council by means of a written request made within fifteen calendar days of the effective date of the suspension or revocation. All requests shall be mailed by certified mail to the city. The decision of the council shall be final.

3. Should a franchise issued to an operator be revoked, said operator shall not be issued a franchise to collect solid waste within the city until such time as the operator is able to demonstrate to the satisfaction of the council that the operator is able to comply with all of

the provisions of this chapter.

4. The rights of an operator pursuant to Section 8.20.030 may be suspended or revoked by the city pursuant to the procedures set forth in this section or as described in any executed agreement entered into between the city and operator. (Ord. 1497 § 1 (part), 1996)

8.20.060 Solid waste disposal and diversion.

A. Residential and multifamily premises. Each owner and each occupant of residential and multifamily premises shall dispose of solid waste through the services of a city-authorized waste hauler.

1. Residential Services. For design and planning purposes, all residential structures shall include adequate storage capacity to accommodate three standard ninety-six-gallon roll-out carts per unit.

2. Multifamily Dwellings. For design and planning purposes, where 5 or more multifamily dwelling units are constructed on a building site, provide readily accessible area(s) that serves all buildings on the site and are identified for the depositing, storage and collection of nonhazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals, or meet another local ordinance, if more restrictive.

B. Commercial premises. Each owner and each occupant of a commercial premises shall dispose of solid waste through the services of a city-authorized waste hauler.

1. The size of the bin shall be dependent on the use or uses on the commercial premises and the frequency of services.

2. For design and planning purposes, provide readily accessible areas that serve the entire building and are identified for the depositing, storage and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals or meet another local ordinance, if more restrictive.

C. All construction and demolition projects are subject to a waste diversion performance standard in the percentage amount required by the state of the total wastes generated. Waste diversion is calculated by dividing the total weight of waste diverted by the total weight of waste generated. Documentation of waste diversion, disposed and generated, must be based solely upon weight receipts or other documentation as approved by the city and based on approved guidelines or protocol of CalRecycle and CalGreen. Each construction and demolition project for which a building and/or demolition permit is applied for and approved must achieve the waste diversion performance standard or show a good faith effort to achieve that standard.

D. Diversion Deposit Requirement. As a condition precedent to issuance of any permit for a building or demolition project that involves the production of solid waste that may be delivered to a landfill and/or processing facilities, the applicant shall post a cash deposit in an amount in accordance with the scale set in Section 8.20.070(C), and shall pay an administrative fee set forth in Section 8.20.070(D). The deposit is refundable in whole, if the state required

percentage of waste diversion requirement is fulfilled, or partially, if the diversion requirement is fulfilled in part, or a good faith effort to comply is documented, or the city exempts the project from this requirement based on extenuating circumstances, infeasibility, or emergency. Any deposit for which a refund request has not been timely received, and the balance of deposits remaining after a partial refund, shall be retained by the city for use in paying the cost of waste diversion efforts. The city shall be the sole authority to determine the extent of refund based on the following criteria:

1. A full refund based on a deposit erroneously paid or collected.
2. A full refund when a building permit is withdrawn or cancelled before any work has begun.
3. A full refund, not including the administrative fee, when the state required percentage by weight of the waste generated by the project was diverted from disposal.
4. A partial refund, not including the administrative fee, when less than the state required percentage by weight of the waste generated was diverted from disposal and a good faith effort to conform to the requirement is documented, pro-rated on the basis of the percent of diversion attained.
5. No refund in whole or part shall be authorized unless, within twelve months of the receipt of the certificate of occupancy for the construction or demolition project, or within twelve months of the date that the permit application is withdrawn or cancelled on a project on which work has begun, the original building permit applicant files a written request for refund and provides documentation satisfactory to the city in support of the request.

E. Requirement for Collection of C&D Wastes. All construction and demolition waste as defined by this chapter that result from construction work shall be collected by a solid waste collection enterprise duly authorized by the city of Gardena. No C&D wastes can be carted by a nonauthorized firm or individual unless the materials carted are recyclable solid waste as defined by this chapter, and collected without fee, or sold or donated by the owner/occupant. One hundred percent of organic waste and recyclable materials must be diverted. One hundred percent of asphalt, concrete, dirt and rock must be diverted.

F. All commercial and industrial premises are hereby required to implement a pre-collection diversion system, or a combination thereof, as this chapter defines each. Pre-collection systems may be implemented with an independent third party or with the solid waste collection franchisee; but under no circumstances may the independent third party charge a fee for the service. Notwithstanding the requirements of this chapter, commercial and industrial premises may sell or donate materials to any firm or agency in accordance with state law. (Ord. 1797 § 4, 2018; Ord. 1741 § 1, 2012; Ord. 1649 § 3, 2004; Urg. Ord. 1648 § 3, 2003; Ord. 1497 § 1 (part), 1996)

8.20.065 Special events and venue facility operations.

A. Special Events. Any applicant seeking permission for the temporary or periodic use or occupancy of a public street, publicly owned site or facility, or public park within the city for a civic, commercial, recreational, or social event that requires a city permit which generates

solid waste such as, but not limited to, paper, beverage containers, or food shall develop a waste reduction and recycling strategy approved by the city of Gardena as part of the permit application. The waste reduction and recycling strategy shall include an estimate of the amount and types of waste anticipated from the event, proposed actions to reduce the amount of waste generation related to the event, and arrangements for separation, collection and diversion from landfills of reusable and recyclable materials. For large venues and special events of more than one thousand persons, the applicant shall ensure the implementation of the waste reduction strategy by the deposit to be determined by the city, which shall be refunded upon presentation within sixty days of the event of a weight or cubic yardage receipt for the recyclables from the receiving waste hauler, service charity, recycling center, or other such entity verifying that the materials will not be disposed in a landfill and a description of all other steps taken to reduce or prevent waste generated as a result of the event. Alternative documentation of diversion from the landfill may be acceptable if approved at the time of permit application.

B. Venue Facility Operations.

1. All venue facilities such as, but not limited to, stadiums, museums, concert halls, and parks and attractions located within the city shall separate and arrange for recycling all materials on the city's list of commercial recyclables. In addition, the facility shall prepare and adopt a waste prevention strategy approved by the city of Gardena to reduce the amount of waste material generated by facility operations. Where a venue facility owner provides space for a tenant, event management subcontractor, or permitted use of the facility, that owner shall also be responsible for the recycling and waste prevention performance of the facility user. In fulfillment of this requirement, venue waste generators may utilize, but are not limited to, drop-off and buy-back centers, independent recyclers, nonprofit social and charitable service organizations, or the recycling services of a city approved waste contract collector.

2. Any venue facility must participate in the recycling services offered by city approved waste contract collectors and may be subject to periodic waste audits. In addition, at the request of the city, venue facilities not participating in the recycling services offered by city approved waste contract collectors or found to not be implementing their waste reduction strategy shall submit to the city, at their own expense, annual reports which provide information on, but are not limited to, the waste prevention policies being implemented, and the type, amount, and destination of all solid waste disposed and each recyclable material sold or donated. The city may exempt certain venue facility generators from some of the requirements of this Section because they do not generate significant amounts of solid waste or recyclables at a particular event, or because of localized market conditions for a particular recyclable material.

C. Venue Facility Design, Construction and Demolition.

1. All construction, demolition, and renovation (C&D) projects within the city at venue facilities such as stadiums, museums, concert halls, and parks and attractions are subject to all of the requirements of the city's C&D Waste Diversion program, in accordance with Gardena municipal code section 8.20 and shall submit a Waste Management Strategy (Strategy) to the city prior to beginning any construction, demolition, or renovation activities. Compliance with the provisions of this section shall be listed as a condition of approval on any building or demolition permit issued and shall be considered as partial

satisfaction of the solid waste portion of the environmental mitigation requirements for the project. Submission and approval of a Strategy shall not be required, however, where emergency demolition is required to protect public health or safety.

2. The completed Waste Management Strategy shall include:

- a. The estimated volume or weight of project C&D debris, by major material types, to be generated; the maximum volume or weight of such materials that can feasibly be diverted by deconstruction or salvage for reuse or source separated for collection and recycling; and the vendor or facility that the Applicant proposes to use to collect or receive that material.
- b. The estimated volume or weight of C&D materials that will sent to the landfill.
- c. The estimate volume or weight of reused or recycled-content materials to be used in construction, and any other actions or redesign/reengineering considerations made to reduce the amount of new construction materials used or extend the useable design-life of the facility.
- d. The amount or volume of any additional disposed materials that will be generated by post-construction operations resulting from the construction or renovation; and the proposed design, engineering, and operational features such as, waste reduction policies, dedicated space for collection containers, and recyclable materials flow paths that will reduce wastes and support the ongoing recycling of materials generated by facility operations, and an estimate of the volume or weight of such materials that can feasibly be recycled or otherwise diverted from landfill.

3. In estimating the volume or weight of materials identified in the Strategy, the applicant shall use the material types and standardized conversion rates approved by the city for this purpose.

4. If an applicant experiences unique circumstances that make it infeasible to comply with the diversion requirements, the applicant may apply for an exemption at the time of Strategy submission by including the specific circumstances that make it infeasible to comply and the maximum rate of diversion believed to be feasible for each material.

5. The applicant for any covered project shall submit with the strategy a performance security, defined as the lesser of three percent of total project cost or an amount to be determined by the city. (Acceptable forms of performance security include: performance bonds, surety bonds, money orders, letters of credit, and certificates of deposit.) The city shall only approve a completed strategy if it meets the state required percentage for C&D debris generated by the project will be diverted from disposal through waste prevention, recycling, reuse, or other waste reduction activities; the project has made all feasible efforts to use recycled-content materials and sustainable design principles; the project provided for waste reduction and recycling of materials generated by post-construction facility operations; and the performance security is sufficient. If the director determines that it is infeasible for the applicant to meet the diversion requirements due to unique circumstances, the city may approve alternate diversion rates for one or more targeted materials.

6. Within [30] days after the completion of the covered project, the applicant shall submit

to the city receipts from the vendor or facility which collected or received the C&D material showing the actual weight or volume of each material diverted and to the landfill, receipts for reused or recycled-content materials purchased for the project, the description and amount of any on-site materials reused, a description of all other steps taken to reduce or prevent the waste generation, and a description of the construction and post-construction sustainability policies and actions taken as referenced in the strategy. The city shall review the information and determine whether the applicant has fully complied with the diversion requirements or made all feasible efforts to comply, considering the original waste reduction strategy and factors such as the availability of markets for the C&D debris, the size of the project, and the documented efforts to provide sustainable building and operations practices.

7. If the city determines that the applicant has not fulfilled the requirements or made a good faith effort to comply, or the applicant fails to submit the documentation required within the required time period, then the Performance Security shall be forfeited to the city. All forfeited Performance Securities shall be used for the purposes of promoting waste reduction, recycling, and environmentally sustainable construction within the city of Gardena.

8. Applicants for venue facility construction, demolition, and renovation projects within the city of Gardena shall be required to follow the policies and procedures of the city's C&D program, in accordance with this chapter, and divert at least the state required percentage of all project-related construction and demolition debris, purchase recycled content materials, and provide for environmentally sustainable design and operation of the facilities. (Ord. 1797 § 5, 2018; Ord. 1678 § 1, 2006)

D. Large event and large venue requirements – edible food recovery.

1. Large events and large venues must comply with the requirements of this section commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

2. 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.

3. Large events and large venues shall comply with all of the following requirements:

a. Arrange to recover the maximum amount of edible food that would otherwise be disposed.

b. 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 large venue or large event operator self-hauls to the food recovery organization for food recovery.

c. Not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.

d. 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.

e. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

- i. 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).
- ii. A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
- iii. A record of the following information for each of those food recovery services or food recovery organizations:
 - (a) The name, address and contact information of the food recovery service or food recovery organization.
 - (b) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
 - (c) The established frequency that food will be collected or self-hauled.
 - (d) 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.

4. Maintain records required by this section for five (5) years.

5. No later than January 31 of each year that the large venue or large event operates, commencing no later than January 1, 2022, provide an annual food recovery report to the city that includes the following information:

- a. The amount, in pounds, of edible food donated to a food recovery service or food recovery organization annually; and,
- b. The amount, in pounds of edible food rejected by a food recovery service or food recovery organization annually.
- c. Any additional information required by the city manager or their designee.

E. 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).

8.20.070 Solid waste charges – Payment.

A. Residential premises.

1. A charge fixed by resolution of the council for services rendered in the normal collection, removal, processing and disposal of solid waste shall be collected from the owner of each property in the city improved with residential premises. Each such owner shall be liable for the collection charge whether or not collection services are utilized. The charge shall be billed and collected by Golden State Water, unless the City or another entity is engaged to provide billing services.

2. Charges for special services provided to owners or occupants of residential premises, such as roll-off service or bin service, shall be billed by and paid directly to, the operator of the solid waste collection service.

3. The city may refund any fee, or portion thereof, paid pursuant to the provisions of this chapter, provided the fee is found and determined to have been entered, charged or paid illegally, or more than once, or through clerical error, or through the error or mistake of the city. No order for a refund shall be made except on a claim verified by the person who paid the fee, or the legal representative of such person, filed with the city clerk within one year after the payment sought to be refunded was paid. Refund claims shall be processed in accordance with Title 1, Division 3.6, Part 3 of the Government Code.

4. Exceptions. The monthly residential charges shall not apply to the following:

a. Any property which has been vacant for the month for which the charges are imposed. The burden shall be on the property owner to prove the vacancy;

b. Any property from which the solid waste is self-hauled to a landfill authorized to take such solid waste for the month the charges are imposed. Receipts showing the landfill and processing facility, the dates, the amount and type (e.g., refuse, recyclable materials, organic waste) of material self-hauled, and the amounts paid shall be required as proof.

B. Commercial and multifamily premises. The owners and occupants of commercial and multifamily premises shall pay for solid waste collection services at rates not in excess of maximum amounts and not less than minimum amounts, if any, as may be specified by resolution of the council, which amounts shall be billed by and paid directly to the operator of the solid waste collection service.

C. For regulated C&D projects, upon approval of the C&D waste diversion plan and prior to issuance of any permit, the contractor shall deposit the applicable amount with the city. The deposit shall be in cash, check, performance bond, cash bond, or credit card, payable to the city of Gardena in an amount according to the following schedule.

<u>Value of Job</u>	<u>Recycling Deposit Requirement</u>
Under \$100,000	\$5,000
\$100,000 – \$249,999	\$7,500
\$250,000 – \$499,999	\$10,000
\$500,000+	\$15,000

Funds received by the city as diversion deposits shall be used only for:

1. Payment of diversion deposit refunds.
2. Costs of administration of the program established by this chapter.
3. Cost of programs whose purpose is to divert C&D wastes from landfill disposal.
4. Costs of programs whose purpose is to develop or improve the infrastructure needed to divert C&D wastes from landfill disposal.

D. For a C&D project, a nonrefundable administrative fee of one percent of the project value shall be paid to the city, which fee shall not exceed five thousand dollars.

E. In the event that recyclable solid wastes are not donated or sold, commercial and industrial premises shall pay for collection and processing services in accordance with rates not in excess of maximum amounts and not less than minimum amounts, if any, as may be specified by resolution of the city council, which amounts shall be billed by and paid directly to the operator of the solid waste collection service. (Ord. 1797 §§ 6, 7, 2018; Ord. 1649 § 4, 2004; Urg. Ord. 1648 § 4, 2003; Ord. 1544 § 1, 1998; Ord. 1520 § 2, 1997; Ord. 1497 § 1 (part), 1996)

8.20.080 Charges – Nonpayment.

A. Charges for residential premises shall constitute a debt due the city for which the owner and tenant or occupant of the premises shall be jointly and severally liable, except as hereinafter provided, and no person liable therefor shall willfully fail, neglect, or refuse, after demand by the city, to pay such charges as prescribed by this chapter. Failure to pay such charges shall constitute a lien upon the property for which the charge is assessed. (Ord. 1497 § 1 (part), 1996)

B. Charges billed by the operator of the solid waste collection service. In the event payment in full is not made within sixty (60) days of billing, the operator of the solid waste collection service may suspend service.

8.20.090 Disposal and processing.

A. All solid waste collected in the city shall be disposed of or processed at a suitable site legally empowered to accept such material for disposal or processing. All processing facilities shall comply with the requirements of SB 1383

B. No person shall engage in the business of collecting, dumping or depositing any solid waste upon any property located within the city without first having obtained a special permit pursuant to Chapter 5.04 of this code. (Ord. 1497 § 1 (part), 1996)

8.20.100 Collection vehicles.

A. Collection vehicles used by operators within the city shall comply with the requirements of this section and shall conform to the highest industry standards.

B. Annual inspection by the California Highway Patrol is required for all collection vehicles. Inspection certificates for each collection vehicle shall be filed with the city manager.

C. Collection vehicles must be registered with the California Department of Motor Vehicles, and comply with South Coast Air Quality Management District Requirements and the California Air Resource Board requirements as they are currently in force and as they may be approved for solid waste removal vehicles, as well as other federal, state and local laws and regulations that may be enacted at any time.

D. Collection vehicles shall at all times be kept clean, in good repair and uniformly painted to the satisfaction of the city and shall comply with all measures and procedures promulgated by agencies having jurisdiction. Additionally all vehicles shall be disinfected on a regular basis.

E. Each vehicle shall be so constructed and used so that solid waste, oil, grease or other liquid will not blow, fall or leak out of the vehicle onto the street. All solid waste shall be transported by means of vehicles equipped with water-tight bodies fitted with close-fitting metal covers. Should any solid waste be dropped or spilled in collecting, transferring or transporting, it shall be immediately cleaned up. A broom and a shovel shall be carried on each vehicle at all times for such purpose.

F. The operator's name and telephone number shall be printed or painted in legible letters, not less than six inches in height and four inches in width and shall be prominently displayed on each side of the vehicle in a color sharply contrasting with the color of the vehicle.

G. The noise level generated by compaction vehicles using compaction mechanisms during the stationary compaction process shall not exceed a single-event noise level of seventy-five decibels (dba) at a distance of twenty-five feet from the collection vehicle measured at an elevation of five feet above ground level. Each operator shall submit to the city, upon request, a certificate of vehicle noise level testing by an independent testing entity approved by the city.

H. Each vehicle used for the collection, hauling and disposal of solid waste shall be equipped with an audible warning device that is activated when the vehicle is backing up.

I. Should the city at any time give notification in writing to the operator that any designated vehicle does not comply with the standards of this chapter, such vehicle shall forthwith be removed from service by the operator and not again so used hereunder until inspected and approved in writing by the city. (Ord. 1497 § 1 (part), 1996)

8.20.110 Containers/bins.

A. Containers. Every person occupying or in possession of any premises in the city shall provide sufficient portable containers for solid waste to accommodate the amount of solid waste generated by those particular premises, as follows:

1. Residential. Residential customers shall use the containers provided by the city's franchised waste hauler. Placement of such containers shall comply with the provisions set forth in Section 18.42.130, and SB 1383.

Upon the request of a residential premises owner or occupant, the operator shall provide roll-off service and other services reasonably related to the collection of solid waste.

2. Commercial. Containers shall be constructed of metal or plastic with tight-fitting lids constructed so as not to permit the contents to shift or pass through any opening therein, other than the top thereof, and shall comply with SB 1383. All containers/bins shall be stored in an enclosure and shall be sized for the appropriate size and number of refuse, recycling, and organic containers necessary to accommodate solid waste generated on the property. Placement of said containers shall comply with the provisions as set forth in Section 18.42.130.

3. Food facilities.

a. Food facilities shall maintain a FOG bin (fats, oils, grease), and the enclosure area should be sized to accommodate the access to and service of those bins. The size of waste and FOG bins varies by hauler. At a minimum, sufficient space must be provided to accommodate a one-and-one-half-cubic-yard bin for FOG waste or the amount of FOG generation rates anticipated to be created, whichever is larger.

b. Refuse enclosures shall have smooth surfaced interior walls (no exposed cinder block or brick work – putty coat plaster is acceptable), and a smooth surfaced concrete floor slab for cleaning ability. Gates installed for the enclosure shall be sealed surfaces.

B. Placement of containers – Residential. Each container shall be kept on the premises except on the collection day for that premises. The containers shall be placed for collection on the curb of a public street adjacent to the premises or where the premises are adjacent to a paved alley of sufficient width to allow the easy passage of the collection vehicles and emergency vehicles. For residences that take collection from an alley, the containers may be placed within two feet of the rear property line of the premises provided the placement does not conflict with other provisions of the Gardena Municipal Code. Each container shall be placed for collection not later than the hour upon which the collection is scheduled to commence in the area in which the premises are located and shall not be placed for collection earlier than twenty-four hours prior to the time the collection is scheduled to commence. All containers shall be removed within twenty-four hours after collection. Except, during the time a container is placed for curbside collection, containers shall not be visible from the public right-of-way.

C. Placement of containers – Commercial/Multifamily. Each container shall be placed in a manner that is accessible for collection and does not constitute an obstruction to public areas, right-of-way, or cause or contribute to littering or a nuisance and does not conflict with an area specifically designated for collection by the community development department, other city departments or Section 18.42.130. Waste containers and storage areas shall be screened from public view, including when placed in an alley.

D. Removal of containers. An operator who has been notified by a commercial or multifamily solid waste service recipient that commercial solid waste service is to be discontinued shall remove all of its commercial bins from the premises of the service recipient who is discontinuing service within one week following the receipt of notification that service is to be discontinued.

E. Securing of containers. All solid waste containers left outdoors, whether residential or commercial, shall be stored with the tops closed or otherwise securely fastened and shall be

maintained so that no solid waste or recyclable material placed therein shall be permitted to escape from the container.

F. Container Enclosure.

1. If a container enclosure is required, a concrete block wall shall be constructed on three sides, with a twelve-foot clear gate opening, a twelve-foot interior pad width and a twelve-foot interior pad depth. The wall shall have a minimum height of seven feet with a maximum height of ten feet.

2. Gates shall be made of solid metal. Gated openings for ingress/egress of bins must be a minimum of twelve feet wide with no posts in the middle. A separate, additional pedestrian entrance is encouraged from the backside. Gates shall be secure to the poles or walls through the use of bolts or welds, screws shall not be permitted. The gate shall have latches to hold the gate in the open position. All latches shall be installed on the exterior of the gates and latch rods shall be a minimum of thirty-six inches above ground level. Latch rods shall be a minimum of three-quarters inch in diameter. The receiver shall be three inches deep, one-inch inside diameter and flush with the ground. Hung gates must have a four-inch clearance off the finished pad or apron. Gates in the opened position shall not infringe on the traffic aisles and shall open to at least one hundred eighty degrees when secured open.

3. As more fully described below, the building official, shall ensure adequate space for recycling is incorporated into building plans as required by the California Code of Regulations, Title 23, the California Green Building Standards Code (CalGreen), Chapter 4 Residential Mandatory Measures, and Chapter 5 Nonresidential Mandatory Measures.

a. CalGreen Chapter 4 Section 4.410.2 Recycling by Occupants. Where 5 or more multifamily dwelling units are constructed on a building site, provide readily accessible area(s) that serves all buildings on the site and are identified for the depositing, storage and collection of nonhazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals, or meet another local ordinance, if more restrictive.

b. CalGreen Chapter 5 Section 5.410.1 Recycling by Occupants. Provide readily accessible areas that serve the entire building and are identified for the depositing, storage and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, organic waste, and metals or meet another local ordinance, if more restrictive.

c. CalGreen Chapter 5 Section 5.410.1.1 Additions. All additions conducted within a 12-month period under single or multiple permits, resulting in an increase of 30 percent or more in floor area, shall provide recycling areas on site.

The building official shall report the number of construction and demolition debris removal activities conducted in compliance with 14 CCR Section 18994.2. Reports are due October 1, 2022 for the period of January 1, 2022 through June 30, 2022, and on or before August 1, 2023, and on or before August 1st each year thereafter.

4. Where a concrete block container enclosure is installed, vertical and horizontal steel reinforcement shall be required in accordance with the general services department

guidelines.

5. Curbs. Six-inch curbs shall be placed on the inside walls to protect the walls from bin impact.

6. Gate stops shall be installed to prevent enclosure gates from closing while bin is being cycled. All gates shall open one hundred eighty degrees and the latch rod shall have the same one-inch inside diameter receiver as the closed position requires.

7. Accessing the Enclosure. When a straight on approach cannot be accomplished to access the enclosure, a parallel approach shall be utilized and the service will be conducted by a side-load unit. Only in the event where a front-load service must be utilized, and a straight approach cannot be achieved, a radius of not more than thirty-one and nine-tenths degrees shall be used to make the approach into the enclosure.

8. Enclosures shall be screened with plant material whenever practical.

G. Stormwater Pollution Prevention. Enclosures shall be covered to prevent rain from falling on containers, compactors, or the enclosure floor and carrying contaminants to the stormwater system. Stormwater runoff from the roof of the enclosure area shall drain away from the enclosure area and shall drain to landscaping or other stormwater treatment system before discharging to the municipal storm sewer system. Enclosures shall be plumbed to the sanitary sewer so that waste spills, leaks, and wastewater from bin washouts does not run out of the enclosure area and into storm drains. Food service facilities (such as bakeries, restaurants, take-outs, and businesses with cafeterias) shall include a sanitary sewer connection in the enclosure area. If FOG is stored in the enclosure, the sanitary drain shall discharge to a grease interceptor. A trap primer is required in accordance with the California Plumbing Code. (Ord. 1797 § 8, 2018; Ord. 1497 § 1 (part), 1996)

8.20.120 Other prohibited activities.

A. It is unlawful for any person to deposit or bury, or cause or permit to be deposited or buried, within the city, any solid waste upon any premises, public or private.

B. It is unlawful for any person to interfere with the collection, conveyance, or disposal of solid waste.

C. No person, except the lawful operators as defined in this chapter, shall gather, collect, or transport solid waste within the city and exact charges for such services.

D. It is unlawful to deposit solid waste within or upon another person's property or to use a container or bin for solid waste not attributable to the property upon which placement is based pursuant to this chapter.

E. It is unlawful for any property owner or occupant to allow solid waste and debris to be scattered or accumulate upon public right-of-way abutting his property.

F. It is unlawful for any person to cause or permit solid waste to accumulate at any place or premises under his charge or control for a period in excess of one week.

G. No person shall accumulate solid waste for more than seven consecutive days; nor shall

any person keep upon any premises in the city any solid waste which is offensive, obnoxious or unsanitary.

H. No person shall dump, deposit, release, spill, leak, pump, pour, emit, empty, discharge, inject, bury or dispose into the environment any liquid or solid waste upon any premises within the city, or cause the same thereto except in an authorized or permitted solid waste container or at an authorized or permitted solid waste facility.

I. No person shall construct or operate a solid waste management facility including but not limited to a materials recovery facility, solid waste transfer station or processing facility, composting facility, a buy-back or drop-off center, disposal facility or recycling center without first satisfying all city requirement for land use, environmental and other approvals.

J. No person, other than the owner thereof or his agents or employees, or an officer or employee of the city, or operator, shall tamper or meddle with any container, or the contents thereof, or remove the contents of the container, or remove the container from the location where the container shall have been placed by the owner thereof or his agent.

K. No operator shall transfer the load from one collection vehicle to another on any public street or road unless such transfer is essential to the method of operation and is approved by the city manager, or is necessary owing to mechanical failure or accidental damage to a vehicle.

L. Commingling of solid waste materials collected within the city with solid waste collected from outside of city shall be prohibited. The provisions set forth in this subsection, shall not be applicable to any transfer station or processing facility, or material recovery facility, operating under a host agreement granted pursuant to Section 8.20.035 of the Gardena Municipal Code.

M. Nothing in this chapter shall prevent any person from engaging in the collection of material for the sole purpose of the implementation of composting or other organic waste recycling programs. (Ord. 1497 § 1 (part), 1996)

8.20.130 Time and frequency of collections.

A. Residential. Collection shall be made between the hours of seven a.m. and seven p.m., Monday through Friday. In the case of a holiday, collection shall be made on the day following the regularly scheduled day of collection. During those weeks in which a holiday occurs, collection shall be made on the following Saturday.

B. Commercial. Collection from commercial premises where noise from collection vehicles may be audible in residential areas shall be made between the hours of seven a.m. and seven p.m., Monday through Friday. Site and route-specific exceptions may be made to this limitation by the city manager if requested by operator. If collections are not made on holidays, the collection shall be made on the day following the regularly scheduled day of collection.

1. Solid waste within commercial zones shall be collected at least one time per week or as often as deemed necessary to protect the health and safety of persons within the area.
2. Commercial food preparation establishments shall cause all food waste to be collected

and removed from the premises not less frequently than twice per week or as often as deemed necessary to protect the health and safety of those persons within the area.
(Ord. 1497 § 1 (part), 1996)

8.20.140 Noise.

All collections shall be made as quietly as possible and in conformance with applicable city laws. (Ord. 1497 § 1 (part), 1996)

8.20.150 Indemnification and insurance. Requirements of Operators Engaged in Collection Services.

A. Indemnification of city. Without regard to the limits of any insurance coverage, each operator shall defend, indemnify and hold harmless city, its elected officials, officers, employees, volunteers and agents from and against any and all losses, fines, penalties, claims, damages, liabilities or judgments, including attorneys' fees, arising out of or resulting in any way from the operator's conduct of business in the city or the city granting the operator the right to conduct such business.

B. Hazardous substances indemnification.

C. Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, operators specifically agree to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), reimburse, indemnify, and hold Indemnitees harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of operator that:

1. Results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnitee is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or
2. Relates to material collected, transported, recycled, processed, treated or disposed of by operator.

D. Operator's obligations pursuant to this section shall apply, without limitation, to:

1. Any Claims brought pursuant to or based on the provisions of any environmental law;
2. Any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation of operator of any Facility.

3. Any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by operator;

4. Any claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with any agreement entered into between the city and operator.

E. The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of operator or any Affiliate of operator.

F. For purposes of this section, the term "Hazardous Contaminant" shall mean any hazardous substance any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to any referenced statutory or regulatory provisions made G. CERCLA Defense Records. Each operator shall maintain data retention and preservation systems which can establish where solid waste collected in the city was landfilled (and therefore establish where it was not landfilled) with a copy or summary of the reports required by sections of this code, for fifty years after the term during which collection services are provided or to provide copies of such records to city. Operator agrees to notify city's risk manager and city attorney before destroying such records. This provision shall survive the expiration of the period during which collection services are to be provided.

H. CalRecycle Indemnification and Guarantee.

Operator's duty to defend and indemnify herein includes payment of all fines and/or penalties imposed by CalRecycle, subject to the restrictions set forth in Public Resources Code Section 40059.1, if the requirements of AB 939, AB 341, AB 1826, and/or SB 1383 and corresponding regulations are not met by the operator with respect to the discarded materials collected by operator, and such failure is: (i) due to the failure of operator to meet its obligations, or, (ii) due to operator delays in providing information that prevents operator or city from submitting reports required by AB 939, AB 341, AB 1826, and/or SB 1383 and corresponding regulations in a timely manner. The provisions of this Section shall survive the termination or expiration of any agreement entered into between the city and operator. In carrying out the provisions of this Section, operator agrees to perform the following obligations at its cost and expense:

I. Defend, with counsel approved by city, indemnify and hold harmless the city against all fines and/or penalties imposed by CalRecycle, if operator fails or refuses to provide information relating to its operations which is required by any agreement entered into between the city and operator and such failure or refusal prevents or delays city from submitting reports required by AB 939, AB 341, AB 1826, and/or SB 1383 in a timely manner;

J. Assist city in preparing for, and participating in, CalRecycle's biannual review of the city's source reduction and recycling element pursuant to Public Resources Code Section 41825;

K. Assist city in responding to inquiries from CalRecycle in applying for an extension under Public Resources Code Section 41820, if so, directed by city; in conducting any hearing conducted by CalRecycle relating to AB 939; or in any other investigative or enforcement

manner undertaken by any agency;

L. Defend, with counsel acceptable to city, and indemnify and hold harmless the city against any fines or penalties levied against it for violation of AB 939, AB 341, AB 1826, and/or SB 1383 requirements, provided that operator's obligation to indemnify city shall be subject to the limitations set forth in Public Resources Code Section 40059.1(c) as may be amended from time to time;

M. In cooperating with the city, should it seek to become its own enforcement agency, to the extent it may be permitted under state law.

N. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).
2. The most recent editions of Insurance Services Office form number CA 00 01 covering Automobile Liability, code 1 "any auto" and endorsement CA 00 25.
3. Environmental/Pollution Liability Insurance in a form acceptable to the city attorney.
4. Workers' Compensation insurance as required by the Labor Code of the state of California and Employers Liability insurance.

O. Minimum Limits of Insurance. operator shall maintain in force for the term of any agreement entered into between the city and operator limits no less than:

1. Comprehensive General Liability: Five Million Dollars (\$5,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.
2. Automobile Liability: Five Million Dollars (\$5,000,000) combined single limit per accident for bodily injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.
3. Environmental/Pollution Liability Insurance. Five Million Dollars (\$5,000,000) per loss and annual aggregate applicable to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically damaged or destroyed; clean-up costs, including first party cleanup of the city's property and third-party cleanup, and bodily injury costs if pollutants impact other properties; and defense, including costs, fees and expenses incurred in the investigation, defense, or resolution of claims. Coverage shall include completed operations and shall apply to sudden and non-sudden pollution conditions. Coverage shall apply to acts, errors or omissions arising out of, or in connection with operator's scope of work under any agreement entered into between the city and operator.. Coverage shall also apply to non-owned deposit sites ("NODS") that shall protect against, for example, claims regarding bodily injury, property damage, and/or cleanup costs involving NODS. Coverage is preferred by the city to be occurrence based. However, if provided on a claims-made basis, operator warrants that any retroactive date applicable to coverage under the policy precedes the effective date of any agreement entered into between the city and operator, and that continuous coverage shall be

maintained, or an extended discovery period will be exercised through completion or

termination of any agreement entered into between the city and operator, for a minimum of five (5) years. This provision does not limit or alter any rights or remedies to city allowable under any agreement entered into between the city and operator, and/or applicable law in perpetuity.

4. Technology Professional Liability Errors and Omissions Insurance: (Cyber Liability) appropriate to the operator's profession and industry practice, with limits not less than Two Million Dollars (\$2,000,000) per occurrence. Coverage for cyber risks shall be sufficiently broad to respond to the duties and obligations as are undertaken by operator under any agreement entered into between the city and operator, and shall include, but not be limited to claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security. The policy shall provide coverage for breach response notification and remediation costs, regulatory fines and penalties, credit monitoring expenses, electronic funds transfer losses, electronic data restoration expenses, and business interruption costs with limits sufficient to respond to these obligations, in the sole discretion of the city attorney.

5. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the state of California and Employers Liability limits of \$1,000,000 per accident.

P. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by city, which approval shall not be unreasonably withheld. If, in the reasonable opinion of city, operator does not have sufficient financial resources to protect city from exposure with respect to any deductibles or self-insured retentions, at the option of city, either: the insurer shall reduce or eliminate such deductibles or self-insured retention's as respects city, its officials, employees and agents; or operator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Q. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability Environmental Liability and Automobile Liability Coverages

a. City, its elective and appointive boards, commissions, officials, employees, agents and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of operator; premises owned, leased or used by operator; or vehicles owned, leased, hired or borrowed by operator. The coverage shall contain no special limitations on the scope of protection afforded to city, its elective and appointive boards, commissions, officials, employees, agents or volunteers.

b. Operator's insurance coverage shall be primary insurance as respects city, its elective and appointive boards, commissions, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by city, its officials, elective and appointive boards, commissions, employees, agents or volunteers shall be excess of operator's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to city, its officials, elective and appointive boards, commissions, employees, agents or volunteers.

d. Coverage shall state that operator's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive all rights of subrogation against city, its officials, elective and appointive boards, commissions, employees, agents and volunteers for losses arising from work performed by operator for city.

3. All Coverages - Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to city.

R. Scope of Coverage. All of the above policies of insurance shall be primary insurance and shall name the city, its electives and appointive boards, commissioners, officials, officers, employees, and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the city, its electives and appointive boards, commissioners, officials, officers, employees, agents, and their respective insurers. In the event any of said policies of insurance are cancelled, operator shall, prior to the cancellation date, submit new evidence of insurance in conformance with this section to the city.

S. Acceptability of Insurers. The insurance policies required by this section shall be issued by an insurance company or companies authorized to do business in the state of California and with a rating in the most recent edition of Best's Insurance Reports of size category XIII or larger and a rating classification of A or better.

T. Verification of Coverage. Simultaneously with the execution of any agreement entered into between the city and operator, operator shall furnish city with certificates of insurance evidencing the coverage required herein, in form and substance satisfactory to city. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. No work shall commence until operator has provided city with the Certificate(s) of Insurance or appropriate insurance binder(s) evidencing the required insurance coverage and said Certificate(s) of Insurance or binder(s) are approved by the city, which appraisal shall not be unreasonably withheld. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. If city requests, copies of each policy, together with all endorsements, shall also be promptly delivered to city throughout the term of any agreement entered into between the city and operator,

U. Companies and Subcontractors. Operator shall include all companies and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each operator and Subcontractor. All coverages for companies and subcontractors shall be subject to all of the requirements stated herein.

V. Required Cancellation Notices:

1. The certificate of insurance for the Workers' Compensation policy shall contain an endorsement in substantially the following form:

"Thirty (30) days prior written notice by certified mail, return receipt requested, shall be given to city in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

City Manager (or designated representative)
City of Gardena
1700 West 162nd Street
Gardena, CA 90247

2. The certificate of insurance for the Public Liability policy shall contain endorsements in substantially the following form:

a. "Thirty (30) days prior written notice shall be given to city in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

City Manager (or designated representative)
City of Gardena
1700 West 162nd Street
Gardena, CA 90247

b. "City, its officers, elective and appointive boards, commissions, employees, and agents are additional insureds on this policy."

c. "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by city, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."

d. "Inclusion of city as an insured shall not affect city's rights as respects any claim, demand, suit or judgment brought or recovered against operator. This policy shall protect operator and city in the same manner as though a separate policy had been issued to each, but this shall not operate to increase operator's liability as set forth in the policy beyond the amount shown or to which operator would have been liable if only one party had been named as an insured."

Renewal certificates will be furnished periodically to city to demonstrate maintenance of the required coverage throughout the Term.

W. Other Insurance Requirements

1. In the event any services are delegated to a operator or Subcontractor, Operator shall require such operator or Subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the operator or Subcontractor's employees engaged in the work in accordance with this section. The liability insurance required by this Section 9.4 shall cover all operator or Subcontractors or the operator or Subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 9.4.

2. Operator shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve operator from any obligation. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third person against operator or any operator or Subcontractor on account of any occurrence related to any agreement entered into between the city and operator, operator shall promptly report the facts in writing to the insurance carrier and to city.

If operator fails to procure and maintain any insurance required by this section, city may take out and maintain, at operator's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due operator.

8.20.160 Reporting requirements.

A. Each operator shall maintain all records relating to the services provided hereunder, including, but not limited to, route maps, customer lists, billing records, weight tickets, maps, AB 939 and SB 1383 records, and customer complaints, for the full term during which collection services are provided, and an additional period of not less than three years, or any longer period required by law. The city shall have the right, upon reasonable advance notice, to inspect, audit and copy all records which may be relevant to operations within the city or relating to the imposition of any fees which may imposed by the city. In the absence of extraordinary circumstances, two business days' notice shall be considered reasonable. Such records shall be made available to city at operator's regular place of business, but in no event outside the county of Los Angeles.

B. Should any examination or audit of operator's records reveal an underpayment to city by operator, the amount, plus interest compounded daily at the maximum lawful rate, shall be paid to city within thirty days.

C. Reporting Requirements. Operator shall cooperate with city and or designated consultants in solid waste disposal characterization studies and waste stream audits and shall implement measures adequate to achieve the city's source reduction, recycling and waste stream diversion goals for the solid waste stream. Operator, at its own expense, shall submit to city information and reports necessary for city to meet its reporting obligations imposed by AB 939 and/or other legislation, and the regulations implementing AB 939 and/or other legislation, with respect to the solid waste collected by operator in the city.

D. Reports and Records.

1. Monthly, Quarterly and Annual Reports. In addition to reports required by other provisions, operator shall also submit to city such other information or reports in such forms and at such times as the city may reasonably request or require or as set forth by resolution or incorporated into the operator's agreement with the City as may be amended from time to time.

2. Source Reduction and Recycling Plan ("SRRP"). Operator shall be required to submit an annual SRRP that is exclusive to the city. Each SRRP will be reviewed in detail to ensure that it meets the state-mandated requirements as established by AB 939 or other legislative requirements. The SRRP should examine in detail how the operator will accomplish these goals. The SRRP must include but is not limited to: (1) targeted materials including special wastes for source reduction, recycling and composting; (2)

hazardous waste exclusion plan; (3) diversion methods; (4) reporting methodology; (5) contingency plans; and (6) methods for the handling of white goods including CFC removal, PCB removal and compliance with the requirements of Public Resources Code Sections 42160-42185.

3. SB 1383 Reporting Requirements. Operator shall be required to submit reports required by 14 CCR Article 13

E. Hazardous Waste Inspection and Reporting. Operator shall inspect solid waste put out for collection and reject solid waste observed to be contaminated with hazardous substances. Operator shall notify all agencies with jurisdiction, if appropriate, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center, of reportable quantities of hazardous waste, found or observed in commercial solid waste anywhere within the city. In addition to other required notifications, if operator observes any substances which it or its employees reasonably believe or suspect to contain hazardous wastes unlawfully disposed of or released on any city property, including storm drains, streets or other public rights-of-way, operator will immediately notify the city manager.

F. Hazardous Waste Diversion Records. Operator shall maintain records showing the types and quantities, if any, of hazardous waste found in solid waste which was inadvertently collected from solid waste service recipients within the city, but diverted from landfilling.

G. Reports. All required reports and records shall be furnished at the sole expense of operator. Reports shall be submitted to the city manager. Operator shall submit all reports and information required on computer disks, or by modem, in a format compatible with city's computers, at no additional charge, if requested by city.

H. Certification. All reports provided herein shall be signed under penalty of perjury, by a responsible corporate official, that the report is true and correct.

I. The city shall reserve the right to require all commercial, industrial, institutional or other entities to comply with the conditions of the section should the city deem that the activities engaged in by the entity are of significant levels to warrant reporting.

J. C&D Waste Diversion Plan. Contractors are required to prepare and follow a C&D waste diversion plan that identifies the activities to be conducted during the course of the construction and/or demolition project to assure conformance with the city's requirement that the state required percentage of regulated C&D wastes must be diverted. The plan shall include but is not limited to a description of the following aspects: (1) targeted materials including special wastes for diversion, (2) diversion methods, (3) reporting methodology, (4) employee training, and (5) a contingency plan in the event that diversion methods are inadequate or infeasible for implementation. The C&D waste diversion plan shall be prepared and submitted to the city for review and approval with the building and/or demolition permit application. The contractor shall follow this plan and its activities are subject to city inspection for verification.

K. C&D Waste Diversion Report. Contractors are required to prepare and submit a C&D waste diversion report within sixty days of completion of the project to the city for review and approval. This report shall contain information documenting the good faith effort of the

contractor to meet the C&D waste diversion plan and demonstrating conformance with the state required percentage diversion requirement. The report shall contain as a minimum a completed "Waste Diversion Report Form," originals or copies of all weight tickets or receipts documenting both disposal and diversion, and any other information attesting to or verifying the implementation of diversion activities. (Ord. 1797 § 9, 2018; Ord. 1649 § 5, 2004; Urg. Ord. 1648 § 5, 2003; Ord. 1497 § 1 (part), 1996)

8.20.170 Collection requirements.

8.20.171 Requirements for residential premises (including multifamily premises with cart service) service generators.

Residential premises organic waste generators shall comply with the following requirements:

A. Shall subscribe to city's organic waste collection services for all organic waste generated as described below in this section. 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, residential premises 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. Generator shall place source separated green container waste in the green container; source separated recyclable materials in the blue container; if applicable, source separated food waste in the brown container, and refuse in the gray/black container. Generators shall not place materials designated for the gray/black container into the green container, brown container or blue container.

8.20.172 Requirements for commercial premises (including multifamily premises with shared bin service).

Generators that are commercial premises, shall:

A. Subscribe to city's four or three-container collection services and comply with requirements of those services as described below in this section. 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 premises shall adjust their service level for their collection services as requested by the city.

B. Except commercial premises that meet the self-hauler requirements, participate in the city's organic waste collection service(s) by placing designated materials in designated containers as described below.

1. Option 1: A three-container collection service: generator shall place source separated green container organic waste in the green container; source separated recyclable materials in the blue container; and refuse in the gray/black container. Generator shall not place materials designated for the gray/black container into the green container or blue container.

2. Option 2: Four-container collection service: generator shall place source separated yard waste in the green container; source separated recyclable materials in the blue container; source separated food waste in the brown container; and refuse in the gray/black container. Generator shall not place materials designated for the gray/black container into the green container, blue container, or brown container.

C. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 8.20.172(D)(1) and 8.20.172(D)(2) below) for employees, contractors, tenants, and customers, consistent with city's blue container, green container, brown container and gray/black container collection service or, if self-hauling, per the commercial premises instructions to support its compliance with its self-haul program.

D. Excluding multifamily premises, 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 premises. Such containers do not need to be provided in restrooms. If a commercial premises 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. Commercial premises are 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. Multifamily residential dwellings are not required to comply with container placement requirements or labeling requirements in Section 8.20.172(D) pursuant to 14 CCR Section 18984.9(b).

F. To the extent practical through education, training, Inspection, and/or other measures, excluding multifamily premises, prohibit employees from placing materials in a container not designated for those materials per the city's blue container, green container, brown container,

and gray/black container collection service or, if self-hauling, per the commercial premises' instructions to support its compliance with its self-haul program.

G. Excluding multifamily premises, periodically inspect blue containers, green containers, brown containers, and gray/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/brown 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/brown container organic waste and source separated recyclable materials separate from solid 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 8.20.220 of this chapter to confirm compliance with the requirements of this chapter.

K. Accommodate and cooperate with city's remote monitoring program for inspection of the contents of containers for prohibited container contaminants, which may be implemented at a later date, to evaluate generator's compliance with Section 8.20.172(B). The remote monitoring program shall involve installation of remote monitoring equipment on or in the blue containers, green containers, brown containers and gray/black containers.

L. At commercial premises' 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 gray/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, brown containers and gray/black containers subject to written notification to or approval by the city or its designee.

M. If a commercial premises wants to self-haul, meet the self-hauler requirements in Section 8.20.173 of this chapter.

N. 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).

O. Commercial premises that are tier one or tier two commercial edible food generators shall comply with food recovery requirements, pursuant to Section 8.20.200.

8.20.173 Self-hauler requirements.

A. No person shall cause, permit, or suffer the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment of or discarding of barrels, containers, and other

closed receptacles, or otherwise dispose of such solid waste, recyclables, or organic waste upon any street, alley, waterway, or other unauthorized place, or upon any unimproved lot or any other unlicensed place within or without the city.

B. Self-haulers shall obtain a city self-hauler permit and operate in accordance with this chapter. In order to obtain the permit, the self-hauler shall pay the fee established by resolution of the city council. Self-haulers are only permitted to collect, transport and dispose of solid waste generated by the self-hauler. Under no circumstances may a self-hauler collect, transport or dispose of solid waste not generated by the self-hauler. Notwithstanding any other provision of this chapter, self-haulers shall not be permitted to share, place solid waste in, or to otherwise use the bin, cart, roll-off box, or other container of another person or business. (Ord. 1797 § 2, 2018: Ord. 1497 § 1 (part), 1996).

C. Self-haulers shall source separate all recyclable materials and organic waste (materials that 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.

D. Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated organic waste or source separated food waste to a facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organics waste processing facility.

E. Self-haulers that are commercial premises, or multifamily premises with bin service shall keep a record of the amount of organic waste delivered to each 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.

8.20.174 Waivers for generators.

A. De minimis waivers. The city may waive a commercial premises' obligation (including multifamily premises with bin service) to comply with some or all of the organic waste requirements of this chapter if the commercial premises provides documentation that the business generates below a certain amount of organic waste material as described in Section 8.20.174(A)(2) below, and/or meets the self-hauling requirements of Section 8.20.173 of this chapter. Commercial premises 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 8.20.174(A)(2) below.

2. Provide documentation that either:

- a. The commercial premises' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container, brown container or green container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
- b. The commercial premises' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container, brown container or green container comprises less than 10 gallons per week per applicable container of the business' total waste.

3. Notify city if circumstances change such that commercial premise'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 5 years, if city has approved de minimis waiver.

B. Physical space waivers. the city may waive a commercial premises' or property owner's obligations (including multifamily 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 of Section 8.20.172.

A commercial premises 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 brown containers 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 5 years, if city has approved application for a physical space waiver.

C. The city reserves the right to grant a de minimis or physical space waiver to a commercial premises that has not submitted a waiver application.

8.20.180 Violations – Misdemeanors.

The violation of any provision of this chapter shall constitute a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by fine exceeding one thousand dollars, or both. Each separate day, or any portion thereof, during which any violation of this chapter occurs or continues shall constitute a separate offense and, upon conviction thereof, shall be punishable as provided in this section. (Ord. 1497 § 1 (part), 1996)

8.20.190 Enforcement.

A. Pursuant to California Penal Code Section 836.5, the city manager, and/or designee, and any city code enforcement officer are authorized to enforce the provisions of this chapter and as well as those of California Penal Code Sections 374, 374a, 374.2, 374.3, 374.4, 374d, 374.7, and 375; California Government Code Section 68055 et seq.; and California Vehicle Code Sections 23111 and 23112.

B. Violation. Unless otherwise specified, the violation of any provision of this chapter is grounds for the issuance of an administrative citation and assessment of a fine. The city's procedures on imposition of administrative fines in Chapter 1.20 of the Gardena municipal code 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 chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter. In accordance with CCR Section 18995.4 this subsection B shall not be effective prior to January 1, 2024.

C. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. 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 city staff and resources.

D. Enforcement of SB 1383 regulations as included in this chapter.

1. City code enforcement officers and/or their designee will monitor compliance with this chapter through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring). Section 8.20.220 establishes city's right to conduct inspections and investigations.

2. City may issue an official notification to notify regulated entities of its obligations under this chapter.

3. Prohibited container contaminants. City will issue a notice of violation to any generator found to have prohibited container contaminants in a container. Such notice will be provided in accordance with 14 CCR 18984.5(b). If the city observes prohibited container contaminants in a generator's containers on more than three (3) consecutive occasion(s), the city or its designee may assess contamination processing fees on the generator.

4. All other violations of SB 1383 regulations. With the exception of violations of the prohibited container contaminants provisions, beginning on January 1, 2024, violations of the SB 1383 regulations will be enforced as follows: (i) the city will issue a notice of violation requiring compliance within 60 days of the issuance of the notice; (ii) absent compliance by the respondent within the deadline set forth in the notice of violation, the city will commence an action to impose penalties, via an administrative citation and fine, pursuant to chapter 1.20 of the Gardena municipal code.

5. Notices of violation 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 residential, multifamily or commercial premises, or to the party responsible for paying for the collection services, depending upon available information.

The notice of violation may also be posted at the physical address where the violation occurred.

E. The penalty levels, unless otherwise specified in this chapter, 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. The city may extend the compliance deadlines set forth in a notice of violation issued for non-compliance with this chapter 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.

G. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Section 1.20.060 of the Gardena Municipal Code.

H. Beginning January 1, 2022 and through December 31, 2023, city or their designee will conduct inspections, remote monitoring, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance with this chapter, and if city determines that 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 ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

I. 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 chapter, unless otherwise specified in this chapter, it shall document the noncompliance or violation, issue a notice of violation, and take enforcement action, as needed.

In order to protect for the public health, safety, and well-being, and to prevent the spread of vectors, the owner, occupant, or other person responsible for the day-to-day operation of every property in the city shall make arrangements with an operator franchised or licensed by the city for the collection of solid wastes, recyclables, and/or organic waste as set forth in this chapter.

8.20.200 Requirements for commercial edible food generators.

A. Tier one commercial edible food generators must comply with the requirements of this section 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 all of 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.

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).

8.20.210 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 shall inform generators about California and Federal Good Samaritan Food Donation Act protection in written communications, such as in their contract or agreement established under 14 CCR Section 18991.3(b).

D. 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 annually by March 15, beginning March 15, 2023, 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).

E. In order to support edible food recovery capacity planning assessments or other studies conducted by the city 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.

8.20.220 Inspections and investigations by city pertaining to the requirements of SB 1383 contained with the city's municipal code.

A. City representatives and/or its designee, 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 chapter by organic waste generators, commercial premises, multifamily premises with bin service, 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 premises for inspection. For the purposes of inspecting commercial premises containers for compliance with section 8.20.172(B) of this chapter, city and/or its designee may conduct container inspections for prohibited container contaminants using remote monitoring, and commercial premises shall accommodate and cooperate with the remote monitoring pursuant to section 8.20.172(K) of this chapter.

B. Property owner, manager, or their designee shall provide or arrange for access during all Inspections (with the exception of residential premises 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 chapter described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of remote monitoring equipment (optional); 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 or its designee 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 designee are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

SECTION 3. Chapter 2.60 (Purchasing System) is amended by adopting and adding Section 2.60.180 to the Gardena Municipal Code to read as follows:

SECTION 2.60.180. Recycled-Content Paper Procurement Requirements for City Departments, Direct Service Providers, and Vendors.

(A) All vendors providing Paper Products and Printing and Writing Paper shall:

(1) If fitness and quality are equal, provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least 30 percent (30%), by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled Paper Products and Printing and Writing Paper are available at the same or lesser total cost than non-recycled items or at a total cost of no more than 10% of the total cost for non-recycled items.

(2) Provide Paper Products and Printing and Writing Paper that meet Federal Trade Commission recyclability standard as defined in 16 Code of Federal Regulations (CFR) Section 260.12.

(3) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the City. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.

(4) Certify in writing, on invoices or receipts provided, that the Paper Products and Printing and Writing Paper offered or sold to the City are eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

(5) Provide records to the City's recordkeeping designee of all Paper Products and Printing and Writing Paper purchases within thirty (30) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by any division or department or employee of the City. Records shall include a copy (electronic or paper) of the invoice or other documentation of purchase, written certifications as required in Sections 308.150(a)(3) and 308.150(a)(4) for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if non-recycled content Paper Products or Printing and Writing Papers are provided, include a description of why Recycled-Content Paper Products or Printing and Writing Papers were not provided.

(6) Maintain records required by 308.150(a)(5) for five (5) years.

(B) Definitions

(1) "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).

(2) "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).

(3) "Recycled-Content Paper" means Paper Products and Printing and

Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).

SECTION 4. Notification of Intent to Comply. If the City encounters difficulty in timely implementation of this ordinance the City Manager is directed to submit a notification of intent to comply to CalRecycle in accordance with Public Resources Code Section 42652.5.

SECTION 5. CEQA Compliance. The adoption of this Ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15061(c)(3) which provides that a project is exempt from CEQA when it is covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment and does not apply where it can be seen with certainty that there is no possibility of a significant effect. Staff is directed to file a Notice of Exemption with the County Clerk.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 7. Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

SECTION 8. Effective Date. This ordinance shall not become effective or be in force until thirty (30) days from and after the date of its adoption.

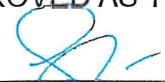
Passed, approved, and adopted this 16th day of November, 2021.


TASHA CERDA, Mayor

ATTEST:


for MINA SEMENZA, City Clerk

APPROVED AS TO FORM:


CARMEN VASQUEZ, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF GARDENA)

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being **Ordinance No. 1837** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a special meeting of said City Council held on the **16th day of November 2021**, and that the same was so passed and adopted by the following roll call vote:

AYES: MAYOR PRO TEM TANAKA AND COUNCIL MEMBERS HENDERSON,
 KASKANIAN, FRANCIS, AND MAYOR CERDA

NOES: NONE

ABSENT: NONE

for Becky Romero
City Clerk of the City of Gardena, California

(SEAL)