

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 9.10.1100, 9.10.1200, AND 9.10.1210 OF CHAPTER 9.10 OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE TO LIMIT THE ABILITY TO ESTABLISH RESIDENTIAL SOLID WASTE SERVICE ACCOUNTS TO THE OWNER AND THEIR AGENTS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

**SECTION 1.** Section 9.10.1100 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

**9.10.1100 Placement of Solid Waste**

- A. No person shall keep any garbage container, nor permit any garbage container to remain, in the street or upon the public parkway except during the period from noon on the day preceding the scheduled collection day to noon on the day immediately following collection.
1. For single-family dwellings and for multifamily dwellings receiving wheeled garbage disposal cart collection service, during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.
  2. For multifamily dwellings receiving garbage disposal bin collection service, during the period from noon on the day preceding the scheduled collection day to 11:59 p.m. on the scheduled collection day.
- B. No person shall keep any recyclables container, nor permit any recyclables container to remain, in the street or upon the public parkway except:

1. For single-family dwellings and for multifamily dwellings receiving wheeled recyclables disposal cart collection service, during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.
  2. For multifamily dwellings receiving recyclables bin collection service, during the period from noon on the day preceding the scheduled collection day to 11:59 p.m. on the scheduled collection day.
- C. No person shall place uncontainerized corrugated cardboard, nor permit any uncontainerized corrugated cardboard to remain, in the public parkway except during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.
- D. No person shall keep any uncontainerized yard wastes, nor permit any uncontainerized yard wastes to remain, in the street or upon the public parkway except during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.
- E. No person shall keep any bulky goods, nor permit any bulky goods to remain, in the street or upon the public parkway except during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.
- F. No person shall keep any yard wastes tarp or container, nor permit any yard wastes tarp or container to remain, in the street or upon the public parkway except during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.

- G. No person shall keep any waste oil container, nor permit any waste oil container to remain, in the street or upon the public parkway except during the period beginning the day preceding the scheduled collection day and ending the day immediately following the scheduled collection day.
- H. The owner of a single-family dwelling or the generator of solid waste at such premises shall set out all solid waste and solid waste containers only in the portion of the street or on the portion of the public parkway, as applicable, that is in front of the single-family dwelling where the solid waste was generated, except:
1. If the single-family dwelling is on a corner lot, the set-out may be in the portion of the street or the portion of the public parkway, as applicable, that is along the side of the single-family dwelling property.
  2. ~~In any case where the owner or generator has subscribed to~~ If the single-family dwelling receives, or is required to have, on-premises collection service, the owner or generator shall place the containers in an accessible location that is not more than one hundred (100) yards from the curb or the edge of the street in front of the property.
- I. All solid waste containers at multifamily dwellings shall be set out for collection either in a location that is readily accessible by the collection vehicles or in a location that is at-grade with the collection vehicle access.
- J. In any case where a single-family dwelling is located on a private street that does not permit access for the solid waste collection vehicles, the owner of the single-family dwelling, or the property manager, home owner association, or conservator ~~generator of solid waste at such premises~~, shall subscribe to and pay for on-premises collection service.

- K. In the event the Director determines that garbage or recyclables containers have been left in the street or upon the public parkway in violation of Paragraph A.2. or B.2. above in such a manner as to hinder parking or traffic flow or in such a manner as to pose a threat to public health or safety, the Director may require the owner of the multi-family dwelling where such violation occurs to subscribe to and pay for "bin push services" (where the solid waste collector moves the bins to the street for collection and moves them back onto the premises after collection) for garbage collection, recyclables collection or both.

**SECTION 2.** Section 9.10.1200 of Chapter 9.10 of Title 9 of the San Jose Municipal Code is amended to read as follows:

**9.10.1200 Payment for Services Rendered or Made Available**

- A. The owner of each residential premises shall pay for solid waste collection service made available to the residential premises by the solid waste collector designated by the City to provide such services.
- B. For the purposes of this Section, the owner of multi-family dwellings authorized to share containers pursuant to Section 9.10.420 shall be deemed to be the person designated as responsible for payment of charges in the written statement submitted to the Director.
- C. The owner shall make payment to the City at such time and in such amounts as are determined by the City Council.
- D. Nothing in this section is intended to prevent an arrangement, or the continuance of an existing arrangement, under which payments for solid waste collection service are made by ~~a tenant or tenants, or any agent,~~ a property manager, home

owner association, or conservator on behalf of the owner. However, any such arrangement shall not relieve the owner of the obligation to pay for such services.

- E. The City may bill the owner of the residential premises for solid waste collection services and for the source reduction and recycling fee imposed pursuant to Section 9.10.1120, and the owner shall remit payment to the City on or before the date specified in the bill.
- F. Any bill not paid by the date specified in the bill shall be deemed delinquent and the Director of Finance shall initiate the assessment procedures set forth in this Part.

**SECTION 3.** Section 9.10.1210 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

**9.10.1210 Late Charge**

- A. If any bill for solid waste collection services becomes delinquent, a late charge in an amount set forth in the schedule of fees established by resolution of the City Council shall be added to the bill. The late charge shall be in addition to any administrative charges imposed pursuant to Section 9.10.1220 and in addition to any assessment charge imposed pursuant to Section 9.10.1270.
- B. In the event the late charge has not been paid prior to the recordation of a lien as provided in this Part, the late charge shall be included in the amount of the lien.
- C. Notwithstanding Subsection A. above, the Director of Finance may cancel the late charge for either single-family or multi-family solid waste collection services if:

1. The owner of the premises, their property manager, home owner association, or conservator whose name appears on the bill, ~~or the person whose name appears on the bill~~, can demonstrate that, prior to its due date, the owner did not receive a bill for the billing period for which the late charge is imposed; and
  2. The owner files a request for cancellation with the Director of Finance within ninety (90) days of receiving notice of the late charge.
- D. Notwithstanding Subsection A. above, if the Director of Finance determines that a late charge was erroneously added to a bill for either single-family or multi-family solid waste collection services, the Director may:
1. Cancel the late charge in any case where the error is discovered prior to the payment of the late charge; or
  2. Refund the late charge in any case where the error is discovered after the late charge has been paid.
- E. Notwithstanding Subsection A. above, with respect to a late charge added to a bill for single-family or multi-family solid waste collection services, the Director of Finance may cancel the late charge in an amount not to exceed five hundred dollars (\$500.00) if:
1. The owner of the single-family or multi-family premises, their property manager, home owner association, or conservator whose name appears on the bill, ~~or the person whose name appears on the bill~~ requests a cancellation within thirty (30) days of receiving notice of the late charge; and

2. During the twenty-four (24) month period immediately preceding the billing date on the bill on which the late charge first appears, neither the owner, their property manager, home owner association, or conservator whose name appears on the bill, ~~nor the person whose name appears on the bill~~ has been granted any other cancellation of a late charge for solid waste collection services at the single-family premises for which the bill was issued; and
  
3. Prior to the cancellation of the late charge, the owner, their property manager, home owner association, or conservator whose name appears on the bill, ~~or the person whose name appears on the bill~~ pays the delinquent bill for which the late charge was imposed.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of November, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

CHUCK REED  
Mayor

ATTEST:

---

LEE PRICE, MMC  
City Clerk