

ORDINANCE NO. 28007

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 9.10 OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTIONS 9.10.1030, 9.10.1100, 9.10.2430, AND 9.10.2440 TO REVISE THE PROVISIONS RELATING TO CONTAMINATED RECYCLABLES CARTS, MULTI-FAMILY CONTAINER SET-OUTS, AND THE CONSTRUCTION AND DEMOLITION DEBRIS DEPOSIT PROGRAM

WHEREAS, Chapter 9.10 of Title 9 of the San José Municipal Code sets out provisions relating solid waste management in the City of San José, including requirements related to the residential solid waste system and the Construction and Demolition Debris Deposit (“CDDD”) program; and

WHEREAS, the City Council desires to amend various provisions of Chapter 9.10 relating to collection of contaminated recycling carts, garbage and recycling bins at multi-family dwellings, refunds for CDDD program deposits, and CDDD deposits for roof tear-offs;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. Section 9.10.1030 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1030 Authorization of Solid Waste Collection Service.

- A. The Director shall authorize the solid waste collector to provide residential solid waste collection service and shall determine the level of service and frequency of collection to be provided at each residential premises.
- B. When in the judgment of the Director additional collection services are required, the Director shall authorize the solid waste collector to provide such additional services.
- C. In the event the Director authorizes the solid waste collector to collect solid waste from a recyclables container whose contents have been determined to be too contaminated to be collected as recyclables, the owner of the premises from

which the contaminated materials are collected shall pay a fee for such collection in an amount set forth by resolution of the City Council.

SECTION 2. 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, 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 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 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 3. Section 9.10.2430 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.2430 Diversion Deposit Exemptions.

Neither a construction and demolition debris clearance document nor a diversion deposit shall be required for the following:

- A. Work for which a building permit is not required under Section 24.02.120.
- B. New residential construction projects of less than \$115,000 in value.
- C. New non-residential construction projects of less than \$135,000 in value.
- D. Residential alterations of less than \$2,000 in value.
- E. Non-residential alterations of less than \$5,000 in value.
- F. Roofing projects.
- G. Work for which only a plumbing permit, only an electrical or only a mechanical permit is required.
- H. Seismic tie-down projects.

- I. The installation or replacement of shelves.
- J. Installation of pre-fabricated patio enclosures and covers where no foundation or other structural building modifications are required.
- K. Installation of swimming pools and spas, provided that the exemption shall apply only to (i) the area to be excavated for the installation of the pool or spa and (ii) the area for the pad for the pool/spa equipment that does not exceed sixteen square feet, and shall not apply to any related construction or alterations necessary for any other equipment or accessories, nor to any other portion of the project.
- L. Installation of pre-fabricated accessories such as signs or antennas where no structural building modifications are required.

SECTION 4. Section 9.10.2440 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.2440 Refund of diversion deposit.

- A. The Director may authorize the refund of any diversion deposit which was erroneously paid or collected.
- B. The Director may authorize the refund of any diversion deposit when the building permit application is withdrawn or cancelled before any work has begun.
- C. The Director may authorize the refund of a diversion deposit when at least fifty percent of the waste generated by the project was diverted from landfill disposal.
- D. The Director may authorize a partial refund of a diversion deposit when less than fifty percent by weight of the waste generated by the project was diverted from landfill disposal. The partial refund shall not exceed that portion of the diversion deposit that is in the same ratio as the demonstrated amount of diverted waste bears to fifty percent by weight of the total waste generated.
- E. The Director shall not authorize the refund of any diversion deposit, or any portion thereof, unless the original building permit applicant files a written request for refund no later than twelve months after the building permit is no longer active for any reason (including because the project has been completed, the permit

has been withdrawn, or the permit has been revoked), and the applicant provides documentation satisfactory to the Director in support of the request.

SECTION 5. The twelve-month time requirement for applications for refunds of construction and demolition debris deposits in subsection E of Section 9.10.2440 shall not apply in any case where the deposit was made prior to the effective date of this Ordinance. In such cases, the Director of Environmental Services shall cause notice to be sent to any person who paid the deposit but did not apply for a refund notifying such person that an application is required and further notifying such person that the application must be filed no later than twelve months after the permit became inactive or within forty-five days of the date of the notice, whichever is later.

PASSED FOR PUBLICATION of title this 3rd day of April, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CONSTANT, CORTESE,
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS;
REED

NOES: NONE

ABSENT: NONE

DISQUALIFIED:: NONE

VACANT: DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk