

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 9.10 OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE TO IMPLEMENT THE REQUIREMENTS OF SB 1383, CALIFORNIA'S SHORT-LIVED CLIMATE POLLUTANT REDUCTION STRATEGY REGULATION, AND TO MORE EFFICIENTLY IMPLEMENT RESIDENTIAL, COMMERCIAL, AND ENFORCEMENT OF SOLID WASTE PROGRAMS

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Waste Management Act of 1989 (California Public Resources Code Section 40000, et seq., as amended, supplemented, superseded, and replaced from time to time), requires cities and counties to reduce, reuse, and recycle (including composting) Solid Waste generated in their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

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41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time), places requirements on businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste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

WHEREAS, State organics recycling law, Assembly Bill 1826 of 2014 (approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources

Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time), requires businesses and Multi-Family property owners that generate a specified threshold amount of Solid Waste, Recycling, and Organic Material per week to arrange for recycling services for that waste, requires Jurisdictions to implement a recycling program to divert Organic Material from businesses subject to the law, and requires Jurisdictions to implement a Mandatory Commercial Organics Recycling program; and

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

WHEREAS, SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires Jurisdictions to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

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

SECTION 1. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.021 AB 341

“AB 341” means Assembly Bill 341 of 2011 approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, as amended, supplemented, superseded and replaced from time to time.

SECTION 2. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.022 AB 1826

“AB 1826” means Assembly Bill 1826 of 2014 approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, as amended, supplemented, superseded, and replaced from time to time.

SECTION 3. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.023 Authorized Organic Material Collector

- A. "Authorized Residential Organic Material Collector" means a person authorized under and by virtue of a contract with the City to provide Organic Material services to Residential Premises in the City.
- B. "Authorized Commercial Organic Material Collector" means a person authorized under and by virtue of a franchise granted pursuant to Part 11 of this Chapter or a permit issued pursuant to Part 13 of this Chapter to provide Organic Material collection services at Commercial Premises.
- C. "Authorized Organic Material Collector" means either an Authorized Residential Organic Material Collector or an Authorized Commercial Organic Material Collector.

SECTION 4. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.041 CalRecycle

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

SECTION 5. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.042 California Code of Regulations

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

SECTION 6. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.076 Community Composting

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

SECTION 7. Section 9.10.080 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.080 Composting

"Composting" or “Compost” means any process in which waste organic matter decomposes in a controlled environment and the product derived from such process.

SECTION 8. Section 9.10.085 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.085 Construction and Demolition Debris

"Construction and ~~d~~Demolition ~~d~~Debris" means:

A. Recyclable and non-recyclable waste building materials, packaging, and rubble resulting solely from construction, remodeling, repair and demolition operations on ~~pavements, houses~~any house, residential property, commercial buildings, ~~and pavement or~~ other structures for which the City requires a building or demolition permit issued under Chapter 24.02 of San José Municipal Code or from a non-permitted municipal project and pursuant to a temporary service agreement of no longer than (1) year; and or

B. ~~r~~Rock, concrete, asphalt and dirt.

Construction and Demolition Debris may include materials that have been Source Separated.

SECTION 9. Section 9.10.090 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.090 Construction and Demolition Debris Collector

A. "Construction and ~~d~~Demolition ~~d~~Debris ~~c~~Collector" means any person who engages in the business of collecting, transporting and/or disposing of either of the following:

1. Construction and Demolition Debris.~~Waste building materials, packaging, and rubble resulting solely from construction, remodeling, and demolition operations on pavements, houses, commercial buildings, and other~~

~~structures authorized by a permit issued under Chapter 24.02 of the San José Municipal Code, and collected pursuant to a temporary service agreement of no longer than one year; or~~

2. ~~Residential clean-out material resulting from the cleaning out of Residential Premises and collected in roll-off or front-load containers rented for a period of one (1) week or less. Rock, concrete, asphalt and dirt.~~

- B. "Construction and ~~d~~Demolition ~~d~~Debris ~~e~~Collector" includes persons who engage in the activities described in ~~S~~subsection A. incidentally to the business of demolition, construction or remodeling.

SECTION 10. Section 9.10.100 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.100 Designated ~~Recycling~~ Collection Location

"Designated ~~recycling e~~Collection ~~l~~ocation" means:

- A. Any container designated by posted signs, marked or labeled as a container for ~~recyclable a specified~~ material type.
- B. Any place where an authorized ~~recycling~~ collector has contracted to ~~pick up~~ ~~recyclable~~collect Solid Waste or material segregated from other waste material, including the curbside of a ~~r~~Residential ~~p~~remises or the service alley of a ~~e~~Commercial ~~p~~remises.

- C. Any place designated in a contract between the City and an authorized ~~recycling~~ collector from which the authorized ~~recycling~~ collector has contracted to collect uncontainerized ~~recyclable~~ material.

SECTION 11. Section 9.10.110 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.110 Director

"Director" means the Director of Environmental Services or the Director's designee.

SECTION 12. Section 9.10.120 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.120 Garbage

- A. "Garbage" means putrescible wastes including kitchen and table food wastes; animal or ~~vegetable wastes resulting from the storage, preparation, cooking, processing, or handling of food or foodstuffs;~~ nonputrescible wastes that are mixed in the same container with or are contaminated by putrescible wastes; infectious wastes, such as used tissues and disposable diapers, which are normally produced at ~~r~~Residential ~~p~~Premises; small dead animals not exceeding ten (10) pounds in weight; and any putrefactive or easily decomposable waste material that is likely to attract flies, vermin, birds or rodents.
- B. Garbage does not include materials that are separated and set aside for ~~R~~ecycling or ~~e~~Composting and does not include ~~h~~Hazardous ~~m~~aterial.

- C. The determination as to whether material is ~~g~~Garbage shall be made by the Director based on a consideration of the purposes of this Chapter.

SECTION 13. Section 9.10.130 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.130 Generator

"Generator" means any person that generates ~~solid waste~~Solid Waste, Organic Material, or Recyclable Material.

SECTION 14. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.154 High Diversion Organic Waste Processing Facility

"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 fifty percent (50%) between January 1, 2022 and December 31, 2024, and seventy-five percent (75%) after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Material 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).

SECTION 15. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.161 Medical Waste

“Medical Waste” means waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code).

SECTION 16. Section 9.10.170 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.170 Multi-Ffamily Dwelling

- A. "Multi-~~f~~Family ~~d~~Dwelling" means any permanent ~~p~~Premises of at least two (2) units used for residential purposes where the units do not receive separate or individual ~~solid-waste~~Solid Waste collection service. By way of illustration, ~~m~~Multi-~~f~~Family ~~d~~Dwelling includes apartment buildings, attached ~~s~~Single-~~f~~Family ~~d~~Dwellings such as townhouses and condominiums, and mobilehome parks, in which the units do not receive separate or individual ~~solid-waste~~Solid Waste collection service.
- B. Multi-~~f~~Family ~~d~~Dwelling does not include any ~~m~~Mixed ~~u~~Use ~~d~~Development, hotel, motel, guesthouse, ~~r~~Residential ~~e~~Care ~~f~~Facility serving seven or more persons, extended care facility, sorority or fraternity house, school, dormitory, residential service facility, emergency residential shelter, hospital, convent or monastery.

SECTION 17. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.175 Organic Material

“Organic Material” means materials originating from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46).

SECTION 18. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.191 Processing

“Processing” means the reduction, separation, recovery, conversion, or recycling of Solid Waste, Recyclable Material, or Organic Material.

SECTION 19. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.192 Prohibited Container Contaminants

“Prohibited Container Contaminants” means discarded materials placed in a container that are not identified as acceptable for the container type.

SECTION 20. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.225 Residential Care Facility

"Residential Care Facility" is a facility licensed by the State of California where care, services or treatment is provided to persons living in a community residential setting.

SECTION 21. Section 9.10.250 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.250 Rubbish

"Rubbish" means all waste ~~wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips,~~ shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, earth, rock, used, demolished or discarded building materials, and other waste material not included in the definitions of "~~g~~G~~a~~rbage," "~~s~~S~~t~~able ~~m~~M~~a~~tt~~e~~r" or "~~s~~S~~w~~ill" set forth in this Part.

SECTION 22. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.251 SB 1383

"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.

SECTION 23. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.255 Self-Hauler

“Self-Hauler” means a person, who hauls Solid Waste, Organic Material or Recyclable Material he or she has generated to another person. Self-Hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66).

SECTION 24. Section 9.10.280 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.280 Solid Waste

~~“Solid waste” means all putrescible and nonputrescible solid and semi-solid waste material including garbage, rubbish, demolition and construction wastes, industrial wastes, vegetable and animal solid and semi-solid wastes, reusable or recyclable material, bulky goods, and other discarded solid and semi-solid wastes.~~

“Solid Waste,” also referred to in this Chapter as “Mixed Waste,” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including Garbage, trash, refuse, paper, Rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and

other discarded solid and semi-solid wastes, with the exception that Solid Waste does not include any of the following wastes:

- A. Hazardous waste, as defined in the State Public Resources Code Section 40141.
- B. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
- C. Medical Waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated Medical Waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical Waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

SECTION 25. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.301 Solid Waste Enclosure

“Solid Waste Enclosure” means a walled structure with a solid cover for the storage of Solid Waste with a drainage system connected to the sanitary sewer and wash system that are adequate to accommodate anticipated waste generated at the Premises.

SECTION 26. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.302 Solid Waste Room

“Solid Waste Room” means an enclosed and ventilated space with a drainage system connected to the sanitary sewer and wash system that are adequate to accommodate anticipated waste generated at the Premises.

SECTION 27. Section 9.10.305 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.305 Source Separation/Source Separated

"Source ~~s~~Separation" or "~~s~~Source ~~s~~Separated" means the segregation by the ~~g~~Generator of ~~r~~Recyclable ~~or Organic~~ ~~m~~Materials from other ~~solid-waste~~Solid Waste by placing the ~~r~~Recyclable ~~or Organic~~ ~~m~~Materials in separate ~~solid-waste~~Solid Waste containers, by binding the ~~recyclable~~ materials separately from other waste materials, or by physically separating the ~~recyclable~~ materials from other waste materials.

SECTION 28. Section 9.10.360 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.360 Transformation

"Transformation" means incineration, pyrolysis, distillation, gasification, anaerobic digestion, or biological conversion other than ~~e~~Composting. Transformation does not include ~~e~~Composting.

SECTION 29. Section 9.10.380 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.380 Yard Waste

"Yard ~~w~~Waste" means grass, weeds, leaves, tree trimmings, plants, shrubbery prunings, and such other similar materials which are generated in the maintenance of yards, gardens or commercial landscaping in the City and which are separated from other ~~solid waste~~Solid Waste materials and placed in a ~~d~~Designated ~~recycling~~ eCollection lLocation.

SECTION 30. Section 9.10.455 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.455 Shared Solid Waste Containers - Permit Required

- A. No person shall store Rresidential ~~solid waste~~Solid Waste on any rResidential pPremises other than the rResidential pPremises where the rResidential ~~solid waste~~Solid Waste was generated except in accordance with a permit issued pursuant to this Section.
- B. No person shall collect gGarbage, Organic Materials, or recyclables from a container shared by two (2) or more mMulti-fFamily dDwelling pPremises unless the Director has issued a permit pursuant to this Section authorizing the rResidential pPremises to share that container.
- C. The Director may issue a permit to authorize two (2) or more mMulti-fFamily dDwelling pPremises to share gGarbage, Organic Materials, or recyclables containers if all of the following conditions are satisfied:

1. The ~~owner~~Owners of the adjacent ~~m~~Multi-f~~E~~Family ~~d~~D~~w~~elling ~~p~~P~~r~~emises, or the ~~owner~~Owners' agents, apply to the Director, in writing, for a permit to share ~~g~~G~~arbage~~, Organic Materials, or recyclables containers.
2. The application for the permit includes a written statement signed by the ~~owner~~Owner of each of the affected ~~p~~P~~r~~emises, or the ~~owner~~Owner's agents, designating which of the ~~owner~~Owners will assume full responsibility for the payment of all charges for ~~solid waste~~Solid Waste collection services made available to the affected ~~p~~P~~r~~emises, designating which of the ~~owner~~Owners shall be responsible for the maintenance of the containers and the area in which the containers are placed, and designating, by address and assessor's parcel number, which of the affected ~~p~~P~~r~~emises shall be subject to the special assessment procedures and charges set forth in Part 8 of this Chapter.
3. The Director has determined that placement of ~~g~~G~~arbage~~, Organic Materials, or ~~recyclable material~~Recyclable Material in the shared containers can be accomplished without transporting the ~~g~~G~~arbage~~, Organic Materials, or ~~recyclable material~~Recyclable Material on or across any public street (excluding alleys between the affected ~~p~~P~~r~~emises).
4. The Director has determined that space constraints at the ~~m~~Multi-f~~E~~Family ~~d~~D~~w~~elling ~~p~~P~~r~~emises make it difficult to site ~~g~~G~~arbage~~, Organic Materials, or recyclables containers in such numbers and such sizes as will accommodate the volume of ~~g~~G~~arbage~~, Organic Materials, or ~~recyclable material~~Recyclable Material generated at the ~~p~~P~~r~~emises.

D. The Director may impose conditions on the permit issued pursuant to ~~S~~Subsection A. or ~~S~~Subsection B., as determined by the Director to be consistent

with the purposes and provisions of this Chapter. Such conditions may include, but are not limited to, restrictions on the number of containers, restrictions on the size or capacity of containers, and restrictions on the placement of the containers.

E. Upon written notice to the ~~owner~~Owners of the ~~m~~Multi-f~~F~~amily ~~d~~D~~w~~ellings, or to the ~~owner~~Owners' agents, the Director may revoke any permit to share ~~g~~G~~arbage~~, Organic Materials, recyclables or ~~r~~R~~ubbish~~ containers given pursuant to ~~S~~subsection A. or B. above if the Director finds any of the following conditions exists:

1. The ownership of any of the affected ~~m~~Multi-f~~F~~amily ~~d~~D~~w~~ellings has changed.
2. The space constraints which made it difficult to site ~~g~~G~~arbage~~, Organic Materials, recyclables or ~~r~~R~~ubbish~~ containers sufficient to accommodate the volume of ~~g~~G~~arbage~~, Organic Materials, ~~recyclable material~~Recyclable Material or ~~r~~R~~ubbish~~ generated at the ~~r~~R~~esidential~~ ~~p~~P~~remises~~ no longer exist.
3. The sharing of containers is not in conformance with the conditions of the permit.
4. The bill for collection services made available at the ~~r~~R~~esidential~~ ~~p~~P~~remises~~ remains delinquent for more than ninety (90) days.
5. The ~~solid waste~~Solid Waste generated or accumulated on any of the ~~r~~R~~esidential~~ ~~p~~P~~remises~~ is not handled in conformance with the requirements of this Chapter or applicable law.

SECTION 31. Section 9.10.457 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.457 Shared Solid Waste Containers - Commercial Premises Limitation

- A. No person owning or occupying a ~~e~~C~~ommercial~~ ~~p~~P~~remise~~ shall share a ~~g~~G~~arbage~~, ~~Organic Materials, recyclable material~~Recyclable Material or ~~r~~R~~ubbish~~ container with another ~~e~~C~~ommercial~~ ~~p~~P~~remise~~ if sharing the container contributes to the transportation of ~~g~~G~~arbage~~, ~~Organic Materials, recyclable material~~Recyclable Material or ~~r~~R~~ubbish~~ on or across any public street (excluding alleys between the affected ~~e~~C~~ommercial~~ ~~p~~P~~remises~~).
- B. No person owning or occupying a ~~e~~C~~ommercial~~ ~~p~~P~~remise~~ shall share a ~~g~~G~~arbage~~, ~~Organic Materials, recyclable material~~Recyclable Material or ~~r~~R~~ubbish~~ container with another ~~e~~C~~ommercial~~ ~~p~~P~~remise~~ if sharing the container has an adverse effect on the flow of vehicular or pedestrian traffic.

SECTION 32. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.458 Solid Waste Enclosures and Rooms

- A. All Solid Waste, Recyclable Material, or Organic Material produced on a Commercial Premises, Multi-Family Dwellings, or Mixed Use Developments with a Solid Waste Enclosure or Solid Waste Room shall be stored in the Solid Waste Enclosure or Solid Waste Room when such material is not set out for collection by an authorized Collector.

- B. All Commercial Premises, Multi-Family Dwellings, or Mixed Use Developments constructed, enlarged, or structurally altered after January 1, 2022 shall have a Solid Waste Enclosure or Solid Waste Room. For the purposes of this Section, “structurally altered” means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders. The Director may grant waiver to this requirement in accordance with Section 9.10.3020.
- C. The development permit application shall show the proposed path of travel for the authorized collector to access a Solid Waste Enclosure, Solid Waste Room, or the material generated at the Premises when set out for collection. The path of travel must accommodate the required width, turning radius, and overhead clearances of the collector’s vehicle. The Director may require alterations to the development application to accommodate the travel and collection activities conducted by a collector vehicle.
- D. The development permit application shall show the Solid Waste Enclosure or Solid Waste Room to have sufficient capacity to accommodate containers for, at a minimum, Garbage, Recycling, and Organic Material, and containers shall be appropriately sized to accommodate the expected material that will be generated for the Commercial Premises at the proposed frequency of collection, which must be no less than allowed in Section 9.10.1380.

SECTION 33. Section 9.10.460 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.460 Stable Matter Containers

- A. Any and all ~~s~~Stable ~~m~~Matter generated within or upon any ~~p~~Premises or place in the City shall be placed without delay in containers meeting and complying with all specifications and requirements applicable to ~~g~~Garbage containers.
- B. Stable ~~m~~Matter may be mixed with ~~g~~Garbage in the same ~~g~~Garbage container when it is to be disposed of with and in the same manner and at the same time as ~~g~~Garbage, permitted under the City's Solid Waste collection program.

SECTION 34. Section 9.10.480 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.480 Hazardous Materials Restrictions

- A. No person shall store or accumulate any ~~h~~Hazardous ~~m~~Materials in any container used for storage or accumulation of ~~g~~Garbage, ~~r~~Rubbish, Organic Materials, recyclable material~~Recyclable Materials~~, ~~s~~Swill, ~~s~~Stable ~~m~~Matter or other ~~solid waste~~Solid Waste.
- B. The primary responsibility for proper ~~h~~Handling of ~~h~~Hazardous ~~m~~Materials generated or accumulated on any ~~p~~Premises shall be on the ~~g~~Generator of the ~~h~~Hazardous ~~m~~Materials. Should the ~~g~~Generator refuse, neglect or fail to provide for the proper ~~h~~Handling of ~~h~~Hazardous ~~m~~Materials in accordance with applicable law, the ~~owner~~Owner of the ~~p~~Premises within or upon which the ~~h~~Hazardous ~~m~~Materials has been generated or accumulated shall provide for the proper ~~h~~Handling of the ~~h~~Hazardous ~~m~~Materials in accordance with applicable law.

SECTION 35. Section 9.10.520 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.520 Weekly Disposal-Removal of Solid Waste

- A. No person shall keep any ~~solid waste~~Solid Waste, or allow any ~~solid waste~~Solid Waste to remain upon any ~~p~~Premises within the City for more than seven (7) days. At least once a week all ~~solid waste~~Solid Waste generated within or on any ~~p~~Premises in the City shall be removed from the ~~p~~Premises and disposed of in accordance with the provisions of this Chapter.
- B. The requirement of subsection A. for weekly removal and disposal or Processing of ~~solid waste~~Solid Waste shall not apply under qualifying extenuating circumstances specified in the collector's agreement with the City or under the following circumstances:
1. Where the ~~solid waste~~Solid Waste ~~e~~Collector normally providing collection services at the ~~p~~Premises is unable to perform collection services due to strikes;
 2. Where severe weather conditions or "acts of God" make it impossible for the ~~solid waste~~Solid Waste ~~e~~Collector normally providing collection services at the ~~p~~Premises to perform collection services using normal collection equipment; or
 3. Official holidays interrupt the normal seven (7)-day collection cycle, in which case collections may be postponed to the next working day of the ~~solid waste~~Solid Waste ~~e~~Collector.

- C. The requirement for weekly removal of ~~solid waste~~Solid Waste shall not ~~apply~~applies to ~~recyclable-all~~ material ~~which is kept on types under~~ the premises ~~for the purpose of City's~~ collection program, including Recyclable Materials, Organic Materials, Garbage and other Solid Waste ~~by an authorized recycling collector or for other disposition by the generator in accordance with the provisions of this Chapter.~~

SECTION 36. Section 9.10.525 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.525 Authorized Solid Waste Collector Required

No person shall pay or subscribe to ~~solid waste~~Solid Waste collection services unless provided by a Solid Waste Collector authorized to provide ~~solid waste~~Solid Waste collection services under a ~~commercial solid waste~~Solid Waste franchise granted in compliance with Part 11 or an agreement granted into under Part 7 of this Chapter, as each may be applicable.

SECTION 37. Section 9.10.530 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.530 Requirement for More Frequent Removal of Solid Waste

Where the Director or the Health Officer determines that it is necessary because of the propagation of vectors ~~or~~ for the protection of public health, safety or welfare, or a change in applicable law that ~~solid waste~~Solid Waste collection is required more frequently than once per week, the ~~g~~Generator of the ~~solid waste~~Solid Waste shall cause more frequent collection to be performed, as required by the Director or the Health Officer.

SECTION 38. Section 9.10.550 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.550 Collection and Transportation of Solid Waste

- A. No person shall collect or transport any ~~solid waste~~Solid Waste within or upon any public streets in the City, or anywhere in the City, except in leakproof containers or vehicles so constructed that no ~~solid waste~~Solid Waste can leak, fall, or be blown from such container or vehicle.
- B. Vehicles or containers used to collect or transport Organic Materials, gGarbage, rRubbish, eCannery wWaste, sStable mMatter or sSwill shall be kept completely covered or screened at all times except when ~~solid waste~~Solid Waste is being actually loaded or unloaded and except when the vehicles are moving along a collection route in the course of collection.
- C. Vehicles used to collect or transport gGarbage, rRubbish, eCannery wWaste, sStable mMatter or sSwill shall be labeled with the company's name and telephone number and a unique vehicle number in letters and numbers not less than four inches high painted or stenciled on the vehicle in a location that is clearly visible to the public. Any person who applies for a eCommercial ~~solid waste~~Solid Waste and recyclables collection franchise pursuant to Part 11 of this Chapter shall list all collection vehicles by type and unique vehicle number together with each vehicle's Vehicle Identification Number (VIN) in the franchise application. The franchisee shall report any changes to the vehicles used in the performance of services in the City within seven (7) calendar days of the change.

- D. Vehicles used to collect or transport ~~g~~G~~r~~abage, ~~r~~R~~u~~bbish, ~~e~~C~~a~~nnery ~~w~~W~~a~~ste, ~~s~~S~~t~~able ~~m~~M~~a~~tt~~e~~r or ~~s~~S~~w~~ill shall be maintained in such manner as to meet or exceed vehicle emission standards promulgated by the State of California.
- E. Collection and transportation of any ~~solid waste~~Solid Waste shall be so conducted that no ~~solid waste~~Solid Waste will spill out of the collecting or transporting container or vehicle. Any person collecting or transporting any ~~solid waste~~Solid Waste shall immediately pick up all ~~solid waste~~Solid Waste which spills or is blown from the collecting or transporting container or vehicle, and shall otherwise clean the place onto which any such ~~solid waste~~Solid Waste was spilled or blown.
- F. No person shall transport or permit to be transported into the City any ~~solid waste~~Solid Waste of any kind generated or accumulated outside the City, for the purpose of storing or disposing of it in the City, and no person shall store or dispose of any ~~solid waste~~Solid Waste transported or brought into the City from outside the City, except as follows:
1. ~~Solid waste~~Solid Waste may be transported directly to a ~~solid waste~~Solid Waste ~~d~~D~~i~~sposal ~~f~~F~~a~~ci~~l~~ity for final deposition at such facility site.
 2. ~~Solid waste~~Solid Waste may be transported directly to a ~~solid waste~~Solid Waste ~~t~~T~~r~~ansfer/~~p~~P~~r~~ocessing ~~s~~S~~t~~ation for the following purposes:
 - a. Transfer of the ~~solid waste~~Solid Waste directly from smaller to larger vehicles for transport; or
 - b. Temporary storage, separation or other ~~p~~P~~r~~ocessing of the materials in the ~~solid waste~~Solid Waste.

3. Recyclable waste materials may be transported directly to a ~~Recycling~~ Center for the purpose of ~~Recycling~~.
4. Organic Materials may be transported directly to an Organic Waste Processing facility for the purpose of Processing.
5. Mixed Waste may be transported directly to a High Diversion Organic Waste Processing Facility for the purpose of Processing.

SECTION 39. Section 9.10.560 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.560 Interference with Collector Prohibited

No person shall interfere with or obstruct the authorized activities of a ~~solid-waste~~Solid Waste ~~Collector~~, ~~Authorized~~ ~~Recycling~~ Collector, Authorized Organic Material Collector, ~~will~~ ~~Collector~~ or ~~Cannery~~ ~~waste~~ collector in the collection, transportation, Processing, or disposal of ~~solid-waste~~Solid Waste.

SECTION 40. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.565 Self-Hauler Requirements

- A. Every Self-Hauler, as defined in Part 2 of this Chapter, shall Source Separate their Recyclable Materials and Organic Materials (materials that City otherwise requires Generators to separate for collection in the City's Recyclable Materials and Organic Materials collection program) generated on-site from Solid Waste in

a manner consistent with 14 CCR Section 18984.1 or 18984.2 as applicable, and the City's collection program. Self-Haulers shall deliver their materials to facilities described in this Section. Alternatively, if approved by the Director in writing, Self-Haulers may choose not to Source Separate Organic Materials and shall haul its mixed Solid Waste (that includes Organic Material) to a High Diversion Organic Waste Processing Facility that is approved by the City.

B. Self-Haulers that Source Separate their Recyclable Materials and Organic Materials shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; haul their Source Separated Organic Material to a facility, operation, activity, or property that processes or recovers Source Separated Organic Material; and, haul their Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and, transport manure to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not landfilled, used as alternative daily cover (ADC), or used as alternative intermediate cover (AIC).

C. Self-Haulers that are Owners or responsible parties of commercial businesses or multi-family Premises shall keep records of the amount of Recyclable Materials, Organic Material, and Solid Waste delivered to each facility, operation, activity, or property that processes or recovers Recyclable Materials and Organic Material and processes or disposes of Solid Waste or shall keep records of Solid Waste delivered to High Diversion Organic Waste Processing Facilities. These records shall be subject to inspection by the City or its designee. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the Recyclable Materials, Organic Materials, and Solid Waste.

2. The amount of material in cubic yards or tons transported by the Generator or responsible party 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 Recyclable Materials, Organic Materials, and Solid Waste.
- D. Self-Haulers shall retain all records and data required to be maintained by this Section for no less than five (5) years after the Recyclable Materials, Organic Materials, and/or Solid Waste was first delivered to the facility accepting the material.
- E. Self-Haulers that are commercial businesses or multi-family Premises shall provide copies of records required by this Section to City if requested by the Director or their designee and shall provide the records at the frequency requested by the Director.
- F. A single-family Generator or single-family responsible party that self-hauls Recyclable Materials, Organic Material, or Solid Waste is not required to record or report information in subsections C and D.
- G. Pursuant to 14 CCR Section 18815.9, food waste Self-Haulers are required to maintain records and report to CalRecycle information on the tons of food waste self-hauled and the facilities or each use of such material. Upon request of the Director, food waste Self-Haulers shall provide to the City copies of all reports they are required to report to CalRecycle at a frequency specified by the Director.

SECTION 41. Section 9.10.590 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.590 Records - Maintenance, Audit and Inspection

- A. Each person engaging in the business of ~~solid waste~~Solid Waste collection in the City shall maintain in such person's office: (i) full and complete accounting records, prepared on an accrual basis in accordance with generally accepted accounting principles, reflecting the collector's business both within and outside of the City; (ii) customer service records and customer contact data; and (iii) all statistical, operational, programmatic and other records related to its performance as shall be necessary to provide detailed and accurate reports to demonstrate compliance with its agreement with the City and applicable law. Such books and records shall be subject to audit and inspection by the City and its authorized officers, agents and employees, at any reasonable time and at the collector's office.
- B. The gross revenues derived from the collection and transportation of ~~solid waste~~Solid Waste, whether such services are performed by the collector or by a subcontractor or subcontractors, shall be recorded as revenues in the accounts of the collector. The revenue accounts of the collector shall be maintained in a manner which clearly and separately identifies the revenues.
- C. The collector will maintain and preserve all ~~accounting~~-records and related supporting documentation for a period of not less than ~~three~~five (5) years following the close of each fiscal year of the collector.

- D. The collector shall make available its ~~accounting~~ records and related supporting documentation at any time during regular business hours for inspection and/or audit by the Director, City Manager, Director of Finance or City Auditor, or any other duly authorized representative of the City, for a period of ~~three~~ five (5) years following the close of each fiscal year of the collector.
- E. Should any inspection or audit performed by the City or its agents disclose that the fees or other charges required to be paid by the collector, for the period under review, were understated, the collector shall pay for the cost of such audit, and shall promptly pay all fees and charges determined to be due plus interest at ten percent (10%) per year from the date due.
- F. The collector's records shall be stored in one central location, physical or electronic, that can be readily accessed by collector and authorized representatives of the City. The City retains the right to require records required by this Section to be maintained in a specified format or platform, such as using a specified software platform.

SECTION 42. Part 4 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

Part 4

COLLECTION OF RECYCLABLE MATERIALS

9.10.700 Ownership of Recyclable Material

Except as provided in Sections 9.10.710, 9.10.720 and 9.10.730, upon the placement of ~~recyclable material~~ Recyclable Material in a ~~d~~ Designated ~~recycling e~~ Collection ~~l~~ ocation for collection by an ~~a~~ Authorized ~~r~~ Recycling ~~e~~ Collector, the ~~recyclable~~

~~material~~Recyclable Material shall become the property of the ~~a~~Authorized ~~r~~Recycling ~~e~~Collector.

9.10.710 Ownership of ~~Recyclable Yard Wastes~~Organic Materials

- A. ~~Yard wastes~~Organic Materials which are placed in a ~~d~~Designated ~~recycling~~ ~~e~~Collection ~~l~~Location for collection under the City ~~Yard Wastes~~Organic Materials Collection Program shall remain the property of the ~~yard wastes~~ ~~g~~Generator until such ~~yard wastes~~Organic Materials are collected by the City or an authorized ~~recycling~~ ~~Organic Material~~ collector.
- B. Upon the collection of such ~~Organic Materials~~yard wastes, such ~~Organic Materials~~ ~~yard wastes~~ shall become the property of the ~~a~~Authorized ~~Organic Material~~ ~~recycling~~ ~~e~~Collector or of the City as set forth in the agreement for collection of ~~Organic Materials~~ ~~yard wastes~~ entered into by the City and such collector.

9.10.720 Ownership of Recyclable Waste Oil

- A. Waste ~~O~~eil which is placed in a ~~d~~Designated ~~recycling~~ ~~e~~Collection ~~l~~Location for collection under the City Waste Oil Collection Program shall remain the property of the ~~w~~Waste ~~e~~Oil ~~g~~Generator until such ~~w~~Waste ~~e~~Oil is collected by the City or an ~~a~~Authorized ~~r~~Recycling ~~e~~Collector.
- B. Upon the collection of such ~~w~~Waste ~~e~~Oil, such ~~w~~Waste ~~e~~Oil shall become the property of the ~~a~~Authorized ~~r~~Recycling ~~e~~Collector or of the City as set forth in the agreement for collection of ~~w~~Waste ~~e~~Oil entered into by the City and such collector.

9.10.730 Ownership of Bulky Goods

- A. Bulky ~~g~~Goods which are placed in a ~~d~~Designated ~~recycling~~~~e~~Collection ~~l~~Location for collection by the City's authorized ~~r~~Residential ~~solid waste~~Solid Waste ~~e~~Collector or by an ~~a~~Authorized ~~r~~Recycling ~~e~~Collector shall remain the property of the ~~b~~Bulky ~~g~~Goods ~~g~~Generator until such ~~b~~Bulky ~~g~~Goods are collected by such authorized collector.
- B. Upon the collection of such ~~b~~Bulky ~~g~~Goods, such ~~b~~Bulky ~~g~~Goods shall become the property of the authorized ~~r~~Residential ~~solid waste~~Solid Waste ~~e~~Collector or the ~~a~~Authorized ~~r~~Recycling ~~e~~Collector or of the City as set forth in the agreement for collection of ~~b~~Bulky ~~g~~Goods entered into by the City and such collector.

9.10.740 Unauthorized Collection Prohibited

No person, other than an ~~a~~Authorized ~~r~~Recycling ~~e~~Collector or Authorized Organic Material Collector, shall remove ~~recyclable material~~Recyclable Material or Organic Materials which ~~has~~have been placed in a ~~d~~Designated ~~recycling~~~~e~~Collection ~~l~~Location. Any and each such removal in violation hereof from any ~~d~~Designated ~~recycling~~~~e~~Collection ~~l~~Location shall constitute a separate and distinct offense.

9.10.750 Right of Individual to ~~Dispose of~~Handle Recyclable Material and Organic Material

- A. Nothing in this Part shall limit the right of an individual person, organization or other entity to donate, sell or otherwise ~~dispose of~~handle ~~recyclable~~Recyclable Materials or Organic Material~~-material~~, provided that any such ~~disposal action~~ is in accordance with the provisions of this Chapter.

B. Nothing in this Part prohibits a Generator from preventing or reducing Solid Waste generation, managing Organic Material on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

9.10.760 Civil Action by Authorized Recycling Collector

Nothing in this Part shall be deemed to limit the right of an ~~a~~Authorized ~~r~~Recycling ~~e~~Collector or Authorized Organic Material Collector to bring a civil action against any person who violates Section 9.10.740 of this Chapter.

SECTION 43. The title of Part 5 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

Part 5

PROCESSING AND DISPOSAL OF SOLID WASTE

SECTION 44. Section 9.10.810 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.810 Delivery to Collector

A. Except as provided in subsection B. of this Section and in Section 9.10.820, each kind of ~~solid waste~~Solid Waste shall be disposed of by delivery of the same to a collector who is authorized, pursuant to the provisions of this Chapter, to collect, transport and process or dispose of such ~~solid waste~~Solid Waste. Each kind of ~~solid waste~~Solid Waste shall be delivered to the collector only by placing the ~~solid waste~~Solid Waste in authorized containers for each material type at the place or places where such containers are required or permitted to be kept by other provisions of this Chapter.

- B. A ~~solid waste~~Solid Waste ~~g~~Generator may dispose of ~~solid waste~~Solid Waste other than by delivery to an authorized collector only under either of the following circumstances:
1. A recyclables ~~g~~Generator may deliver recyclables to a ~~r~~Recycling ~~e~~Center.
 2. A recyclables ~~g~~Generator may sell or donate recyclables to any other person and may deliver such recyclables to the point of sale or the place of donation. For the purposes of this provision, "sell or donate" means the recyclables ~~g~~Generator receives payment for the recyclables or gives them away for free, and no payment is made by the recyclables ~~g~~Generator in connection with the recyclables, including any payment for use of recyclables containers. Nothing in this provision authorizes a recyclables ~~g~~Generator to collect or transport recyclables generated by a person other than the recyclables ~~g~~Generator.
 3. A ~~r~~Rubbish ~~g~~Generator may deliver ~~r~~Rubbish to a ~~solid waste~~Solid Waste ~~d~~Disposal ~~f~~Facility or a ~~t~~Transfer/~~p~~rocessing ~~s~~Station, provided that no single delivery exceeds eight (8) cubic yards of ~~r~~Rubbish.
 4. A Generator may separate food scraps to be used by the Generator or distributed to another person(s) for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7). Food scraps intended for animal feed may be self-hauled by the Generator or hauled by another party.

5. A Generator may Compost or otherwise legally manage Organic Material at the site where the Organic Material is generated or at a Community Composting site.

6. A contractor may remove Solid Waste from a Premises as an incidental part of the service being performed, rather than as a separately contracted or subcontracted hauling services. Incidental material does not include residential clean-out material collected in roll-off or front-load containers rented for a period of one (1) week or less.

C. For purposes of this Chapter, Edible Food is not Solid Waste if it is recovered and not discarded and is therefore not subject to this Section. Edible Food shall be handled in accordance with Part 18 of this Chapter.

SECTION 45. Section 9.10.840 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.840 CompostingOrganic Waste Recovery

~~Waste organic matter may be composted provided that the composting:~~

~~A. Occurs at a solid waste facility operating pursuant to a permit issued pursuant to Division 30 of the California Public Resources Code or occurs on the premises where the waste organic matter was generated;~~

~~B. Is conducted in accordance with accepted composting practices;~~

~~C. Is conducted in accordance with applicable federal, state and local laws and regulations;~~

~~D. Does not generate offensive odors or provide a source of food or harborage for vermin; and~~

~~E. Does not create a public or private nuisance.~~

A. Organic Material shall be processed through a method deemed to constitute a reduction of landfill disposal, as defined by 14 CCR Section 18983.1.b, in full compliance with the criteria set forth in 14 CCR Section 18983.1.b for each method.

B. Organic Material shall not be handled in a manner deemed to constitute landfill disposal, which includes the following dispositions of Organic Material:

1. Final deposition at a landfill.

2. Use as alternative daily cover or alternative intermediate cover at a landfill.

a. The use of non-Organic Material as landfill cover shall not constitute landfill disposal of Organic Material.

3. Any other disposition not listed in 14 CCR Section 18983.1.b.

SECTION 46. Section 9.10.860 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.860 Using Solid Waste to Prevent Erosion

A. No person shall place or deposit ~~solid waste~~Solid Waste of any kind on the banks of a stream or waterway in the City unless prior written approval has been

- granted by the Director and the Director of Public Works to use ~~solid waste~~Solid Waste to prevent erosion of such banks.
- B. The Director may grant permission to place ~~solid waste~~Solid Waste on the banks of a stream or waterway to prevent erosion of the banks only if the Director finds that the place and manner of such placement will not endanger the public health and safety. The Director's approval shall be subject to such conditions and restrictions as the Director may find necessary to protect the public health and safety.
- C. The Director of Public Works may grant approval to place ~~solid waste~~Solid Waste on the banks of a stream or waterway to prevent erosion of the banks only if the Director of Public Works finds that the place and manner of such placement will in fact deter or prevent erosion, will not obstruct or hinder the free flow of water in a stream or waterway, and will not cause the ~~solid waste~~Solid Waste to be carried away by floodwaters. The approval of the Director of Public Works shall be subject to such conditions and restrictions as the Director of Public Works may find necessary to protect the public health and safety.
- D. Any approval to use ~~solid waste~~Solid Waste to prevent erosion may be revoked at any time by the grantor of the approval or by the City Council.
- E. Organic Material may be used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill, provided that the material is used in a manner that complies with the criteria set forth in 14 CCR Section 18983.1.b.5.

SECTION 47. Section 9.10.870 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.870 Solid Waste Used as Fertilizer Land Application

Land application of compostable material, consistent with 14 CCR Section 17852.a.24.5, is Stable matter, cannery waste or waste organic matter which has been processed into compost may be used to fertilize land or as a soil amendment, subject to such regulations as the Director or the Health Officer may impose to protect the public health and safety and shall comply with the conditions on particular types of compostable material used for land application set forth in 14 CCR Section 18983.1.b.6. ~~No other solid waste may be used for such purpose.~~

SECTION 48. The title of Part 6 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

Part 6

SOLID WASTE PROCESSING AND DISPOSAL FACILITIES

SECTION 49. Section 9.10.970 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.970 Disposal Facility Operator Integrated Waste Management Fee

- A. Each operator of a disposal facility located in the City shall pay a disposal facility operator integrated waste management fee as set forth in the schedule of fees adopted by resolution of the City Council. Such fee shall be based on the types or amounts of wastes accepted at the disposal facility and shall be used to pay the costs incurred by the City in: (i) preparing, adopting and implementing the Integrated Waste Management Plan required under Division 30 of the California Public Resources Code; and (ii) implementing Organic Material and Recyclable

Materials diversion programs and services for compliance with current and future applicable law, including, but not limited to, AB 341, AB 1826, and SB 1383. The City shall retain the sole right to set priorities for the use of its disposal facility operator integrated waste management fee.

- B. The disposal facility operator integrated waste management fee shall be due and payable to the City at the same time as business taxes are due and payable under Chapter 4.76 of this Code or disposal facility taxes are due and payable under Chapter 4.78 of this Code.
- C. For the purposes of this Section 9.10.970, "disposal facility" means any facility or location where disposal of ~~solid waste~~Solid Waste occurs and any ~~e~~Composting facility or location required to obtain a permit under Division 30 of the California Public Resources Code. "Disposal facility" does not include a facility utilized to receive ~~solid waste~~Solid Wastes for the purpose of ~~r~~Recycling, separation or other ~~p~~Processing of the materials in the ~~solid waste~~Solid Wastes, or for the purpose of transferring the ~~solid waste~~Solid Wastes directly from smaller to larger vehicles for transport, where the permanent disposal of ~~solid waste~~Solid Wastes on the site does not occur.

SECTION 50. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.990 Organic Waste Recovery Capacity

- A. Owners of facilities, operations, and activities located in the City's boundaries that recover Organic Material, 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, throughout, and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within sixty (60) calendar days.

B. Community Composting operators with operations located in the City's boundaries, upon City request, shall provide information to the City to support Organic Material capacity planning, including, but not limited to, an estimate of the amount of Organic Material anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within sixty (60) calendar days.

SECTION 51. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.995 Regulatory Reporting

Owners of facilities, operations, and activities located in the City's boundaries that receive Recyclable Materials, Organic Materials, and/or Solid Waste shall provide to the City on a quarterly basis copies of all reports they are required to report to CalRecycle, including, at minimum, those required by law.

SECTION 52 Section 9.10.1010 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1010 Mandatory Solid Waste, Recyclable Materials, and Organic Materials Collection Service

A. Each ~~r~~Residential ~~p~~Premises in the City shall be provided ~~solid waste~~Solid Waste, Recyclable Materials, and Organic Materials collection services at least

once per week regardless of whether the ~~p~~Premises are occupied and regardless of whether ~~solid waste~~Solid Waste are set out for collection.

B. No ~~owner~~Owner of a ~~r~~Residential ~~p~~Premises shall prohibit or prevent the provision of weekly ~~solid waste~~Solid Waste collection services, including recyclables and Organic Materials collection, at the ~~p~~Premises.

C. All Residential Premises shall subscribe to and pay for the City's collection services for weekly collection of Recyclable Materials, Organic Materials, and other Solid Waste generated by the Residential Premises and comply with requirements of those services. The City's standard collection services for residential Generators includes Source Separated Recyclable Materials container collection, uncontainerized Yard Waste collection, and Mixed Waste container collection, which permits the commingling of Garbage and food waste in the Mixed Waste container. The City retains the right to transition to different or additional container collection system(s), which may require additional Source Separation by the Generator, such as a three (3)-container collection system for Source Separated Recyclable Materials, Source Separated Organic Materials, and Solid Waste; and Generators shall subscribe to, participate in, and pay for such alternative collection system upon direction from the City.

D. The City shall have the right to review the number and size of a Generator's containers and/or uncontainerized service level to evaluate adequacy of capacity provided for each type of collection service for proper separation and containment of materials. The responsible party of the Residential Premises shall adjust their service level for their collection services as requested by the Director.

SECTION 53. 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~~Solid Waste ~~e~~Collector to provide ~~r~~Residential ~~solid waste~~Solid Waste collection service and shall determine the level of service and frequency of collection to be provided at each ~~r~~Residential ~~p~~Premises, which shall be not less than one (1) time per week.
- B. When in the judgment of the Director additional collection services are required, the Director shall authorize the ~~solid waste~~Solid Waste ~~e~~Collector to provide such additional services.
- C. In the event the Director authorizes the ~~solid waste~~Solid Waste ~~e~~Collector to collect ~~solid waste~~Solid Waste from a recyclables container or Organic Materials container whose contents have been determined to be too contaminated to be collected as recyclables or Organic Materials, the ~~owner~~Owner of the ~~p~~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 54. Section 9.10.1060 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1060 Recyclables and Organic Materials Containers Permitted

- A. Except as provided in Section 9.10.1080, no ~~owner~~Owner of a ~~s~~Single-~~f~~Family ~~d~~Dwelling and no ~~g~~Generator of any ~~solid waste~~Solid Waste generated at such ~~p~~Premises shall set out ~~recyclable material~~Recyclable Material for collection by the City's authorized ~~r~~Residential ~~solid waste~~Solid Waste ~~e~~Collector except in a container meeting one (1) of the following descriptions:

1. A wheeled recyclables disposal cart provided by the City or by the City's authorized ~~r~~Residential ~~solid-waste~~Solid Waste ~~c~~Collector, which together with its contents does not exceed the following weight limits:
 - a. Eighty (80) pounds for a cart with a capacity of twenty (20) gallons;
 - b. One hundred (100) pounds for a cart with a capacity of thirty-two (32) gallons;
 - c. One hundred seventy-five (175) pounds for a cart with a capacity of sixty-four (64) gallons; or
 - d. Two hundred fifty (250) pounds for a cart with a capacity of ninety-six (96) gallons.

2. A clean, brown Kraft paper bag which the ~~owner~~Owner or producer has marked for ~~r~~Recycling, and which together with its contents does not exceed a weight of sixty pounds.

3. A ~~g~~Garbage can which meets the following requirements:
 - a. The can must be constructed of metal, plastic or other substantial nonabsorbent material.
 - b. The can must be of sufficient strength and rigidity to hold without collapse all ~~recyclable material~~Recyclable Material deposited and kept therein and must be of sufficient strength and rigidity to

prevent the can from being broken or crushed under ordinary conditions of use.

- c. The can must have a close-fitting cover.
 - d. The can must be equipped with two attached handles or bales, one on each side of the container, of sufficient strength and size and so located to facilitate the lifting and ~~h~~Handling of the container.
 - e. The can must be leakproof.
 - f. The can must be free of sharp, rough or jagged surfaces or edges likely to cause injury to persons lifting or ~~h~~Handling the container.
 - g. The can must be of such shape that it can be lifted and handled without unreasonable strain by one person.
 - h. The can must not exceed thirty-two (32) gallons in capacity.
 - i. The can together with its contents must not exceed sixty (60) pounds in weight.
4. A ~~w~~Waste ~~e~~Oil container or ~~w~~Waste ~~e~~Oil filter bag described in Section 9.10.1070.
 5. For ~~yard wastes~~ Organic Materials, any of the following:
 - a. A ~~y~~Yard ~~w~~Wastes tarp provided by the City or the City's authorized ~~y~~Yard ~~w~~Wastes collector.

- b. A wheeled ~~y~~ard ~~w~~astes cart or Source Separated Organic Materials cart provided by the City or the City's ~~a~~Authorized ~~yard wastes~~Organic Material eCollector, which together with its contents meets the weight limitations for recyclables carts set out in paragraph 1. above.
 - c. A ~~g~~Garbage can which meets the requirements set out in paragraph 3. above.
- B. Except as provided in Section 9.10.1080, no ~~owner~~Owner of a ~~m~~Multi-family ~~d~~Dwelling and no ~~g~~enerator of any ~~solid waste~~Solid Waste generated at such ~~p~~Premises shall set out ~~recyclable material~~Recyclable Material for collection by the City's authorized ~~r~~Residential ~~solid waste~~Solid Waste eCollector except in a container meeting one of the following descriptions:
1. A wheeled recyclables ~~disposal-collection~~ cart provided by the City or by the City's authorized ~~r~~Residential ~~solid waste~~Solid Waste eCollector.
 2. A clean, brown Kraft paper bag or corrugated cardboard box which the ~~owner~~Owner or producer has marked for ~~r~~Recycling, and which together with its contents does not exceed a weight of sixty (60) pounds.
 3. A recyclables collection bin provided by the City or by the City's authorized ~~r~~Residential ~~solid waste~~Solid Waste eCollector.
 4. A three (3)-cubic-yard or four-cubic-yard mesh container provided by the City or by the City's authorized ~~r~~Residential ~~solid waste~~Solid Waste

~~e~~Collector. The mesh container shall be used only for setouts of corrugated cardboard.

5. A ~~w~~Waste ~~e~~Oil container or ~~w~~Waste ~~e~~Oil filter container described in Section 9.10.1070.
6. A ~~y~~Yard ~~w~~Wastes ~~tarp or yard wastes~~ container, or Source Separated Organic Materials cart provided by the City or by the City's ~~a~~Authorized ~~yard wastes~~Organic Material ~~e~~Collector.

C. Notwithstanding this Section, all containers shall comply with the color and labeling standards and replacement timeline set forth in 14 CCR, Division 7, Chapter 12, Article 3. Uncontainerized collection standards shall be in accordance with the requirements of 14 CCR, Division 7, Chapter 12, Article 3. The Director retains the right to require Generators to use specified container types or collection methods at any time, including, but not limited to, standardized containers provided by the City's authorized collectors.

SECTION 55. Section 9.10.1080 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1080 Setout of Uncontainerized Yard Waste and Recyclable Material

No person shall place uncontainerized Yard Waste or recyclable materialRecyclable Material on any sidewalk, in any street, or in any other public right-of-way except in accordance with the following:

- A. Except as provided in subsection B., the ~~owner~~Owner of a ~~r~~Residential ~~p~~Premises or the ~~g~~Generator of ~~y~~Yard ~~w~~Wastes at such ~~p~~Premises may set out

~~y~~Yard ~~w~~Wastes for collection by the City's authorized ~~y~~Yard ~~w~~Wastes collector by placing the ~~y~~Yard ~~w~~Wastes or the ~~y~~Yard ~~w~~Wastes container in the street in front of the ~~r~~Residential ~~p~~Premises where the ~~y~~Yard ~~w~~Wastes were generated or, if the ~~r~~Residential ~~p~~Premises is on a corner lot, the set-out may be in the portion of the street that is along the side of the ~~p~~Premises. The ~~y~~Yard ~~w~~Wastes shall be set out in piles that do not exceed five (5) feet in any dimension and shall be placed not less than one (1) foot from the curb or the edge of the street.

- B. At any ~~r~~Residential ~~p~~Premises which have been determined by the Director to be ineligible for in-street placement, the ~~owner~~Owner of the ~~r~~Residential ~~p~~Premises or the ~~g~~Generator of ~~y~~Yard ~~w~~Wastes at such ~~p~~Premises shall set out ~~y~~Yard ~~w~~Wastes for collection in ~~y~~Yard ~~w~~Wastes ~~tarps~~containers provided by the City's authorized Yard Waste collector or Source Separated Organic Materials yard wastes containers provided by the City's ~~a~~Authorized ~~yard-wastes~~Organic Material ~~e~~Collector for ~~y~~Yard ~~w~~Wastes collection and shall place such ~~tarps~~ or containers on the public parkway in front of the ~~p~~Premises where the ~~y~~Yard ~~w~~Wastes were generated. The Director may require Generators to use containerized service for Yard Waste, at the Director's discretion.
- C. The ~~owner~~Owner of a ~~r~~Residential ~~p~~Premises or the ~~g~~Generator of ~~b~~Bulky ~~g~~Goods generated at such ~~p~~Premises may set out ~~b~~Bulky ~~g~~Goods for collection by the City's authorized ~~r~~Residential ~~solid-waste~~Solid Waste ~~e~~Collector by placing the ~~b~~Bulky ~~g~~Goods on the public parkway in front of the ~~p~~Premises where the ~~b~~Bulky ~~g~~Goods were generated.
- D. The ~~owner~~Owner of a ~~r~~Residential ~~p~~Premises or the ~~g~~Generator of waste corrugated cardboard generated at such ~~p~~Premises may set out uncontainerized corrugated cardboard for collection by the City's authorized residential ~~r~~Recycling collector by placing the cardboard in the public parkway in front of the ~~p~~Premises

where the corrugated cardboard was generated except at ~~p~~Premises where the City or the City's authorized residential ~~r~~R recycling collector has provided a recyclables container for corrugated cardboard.

SECTION 56. Section 9.10.1090 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1090 Debris Boxes for Residential Rubbish

- A. The ~~owner~~Owner of a ~~r~~Residential ~~p~~Premises or the ~~g~~Generator of residential ~~r~~Rubbish may store ~~r~~Rubbish generated at such ~~p~~Premises as a result of demolition, construction, remodeling, cleanup or landscaping at the ~~p~~Premises in a ~~r~~Rubbish debris box for collection by a ~~solid-waste~~Solid Waste ~~e~~Collector authorized to provide ~~r~~Rubbish collection services pursuant to a ~~e~~Commercial ~~solid-waste~~Solid Waste franchise granted in accordance with Part 11 of this Chapter.
- B. Any debris box used for the storage of residential ~~r~~Rubbish shall meet all of the following requirements:
1. The debris box must be provided at the ~~r~~Residential ~~p~~Premises by the ~~solid-waste~~Solid Waste ~~e~~Collector that performs the collection of the ~~r~~Rubbish stored in the debris box.
 2. The debris box must be either a ~~r~~Rubbish container designed for mechanical collection by a collection vehicle or must be a roll-off box.
 3. The debris box must be placed on the ~~p~~Premises or in the street in front of the ~~p~~Premises where the ~~r~~Rubbish is generated.

4. The debris box must not remain at the ~~p~~Premises for more than fourteen (14) consecutive days.

5. The debris box must comply with the container color and labeling standards for applicable material types specified in 14 CCR, Division 7, Chapter 12, Article 3, in accordance with the compliance timeline specified in that Article.

C. No ~~owner~~Owner of the ~~r~~Residential ~~p~~Premises and no ~~g~~Generator of the residential ~~r~~Rubbish shall place any ~~g~~Garbage in the debris box nor permit any other person to place any ~~g~~Garbage in the debris box.

D. For the purposes of this Chapter 9.10, ~~r~~Rubbish collected from a debris box pursuant to this Section 9.10.1090 shall be deemed ~~e~~Commercial ~~solid waste~~Solid Waste and the ~~owner~~Owner of the ~~r~~Residential ~~p~~Premises or the ~~g~~Generator of the ~~r~~Rubbish shall be a ~~e~~Commercial ~~solid waste~~Solid Waste ~~g~~Generator with respect to such ~~r~~Rubbish.

SECTION 57. 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 ~~g~~Garbage container, nor permit any ~~g~~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 ~~s~~Single-~~f~~Family ~~d~~Dwellings and for ~~m~~Multi-~~f~~Family ~~d~~Dwellings receiving wheeled ~~g~~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 ~~m~~Multi-~~f~~Family ~~d~~Dwellings receiving ~~g~~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 ~~s~~Single-~~f~~Family ~~d~~Dwellings and for ~~m~~Multi-~~f~~Family ~~d~~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 ~~m~~Multi-~~f~~Family ~~d~~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 ~~y~~Yard ~~w~~Wastes, nor permit any uncontainerized ~~y~~Yard ~~w~~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 ~~b~~Bulky ~~g~~Goods, nor permit any ~~b~~Bulky ~~g~~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 ~~y~~Yard ~~w~~Wastes tarp or container, nor permit any ~~y~~Yard ~~w~~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 ~~w~~Waste ~~e~~Oil container, nor permit any ~~w~~Waste ~~e~~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~~Owner of a ~~s~~Single-~~f~~Family ~~d~~Dwelling or the ~~g~~Generator of ~~solid waste~~Solid Waste at such ~~p~~Premises shall set out all ~~solid waste~~Solid Waste and ~~solid waste~~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 ~~s~~Single-~~f~~Family ~~d~~Dwelling where the ~~solid waste~~Solid Waste was generated, except:
 - 1. If the ~~s~~Single-~~f~~Family ~~d~~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 ~~s~~Single-~~f~~Family ~~d~~Dwelling property.

2. If the ~~s~~Single-~~f~~Family ~~d~~Dwelling receives, or is required to have, on-
~~p~~Premises collection service, the ~~owner~~Owner or ~~g~~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~~Solid Waste containers at ~~m~~Multi-~~f~~Family ~~d~~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 ~~s~~Single-~~f~~Family ~~d~~Dwelling is located on a private street that does not permit access for the ~~solid waste~~Solid Waste collection vehicles, the ~~owner~~Owner of the ~~s~~Single-~~f~~Family ~~d~~Dwelling, or their property manager, homeowner association, or conservator, shall subscribe to and pay for on-
~~p~~Premises collection service.
- K. In the event the Director determines that ~~g~~Garbage or recyclables containers have been left in the street or upon the public parkway in violation of ~~P~~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~~Owner of the ~~m~~Multi-~~f~~Family ~~d~~Dwelling where such violation occurs to subscribe to and pay for "bin push services" (where the ~~solid waste~~Solid Waste ~~e~~Collector moves the bins to the street for collection and moves them back onto the ~~p~~Premises after collection) for ~~g~~Garbage collection, recyclables collection or both.
- L. Except when the containers are set out for collection, the Solid Waste Generator shall keep and maintain all Solid Waste containers within the side or rear yard of the Premises where the Solid Waste is generated.

SECTION 58. Section 9.10.1110 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1110 Unauthorized Use of Containers Prohibited

No person shall use, nor permit the use of, any ~~g~~G Garbage container, any recyclables container, any ~~y~~Yard ~~w~~Wastes tarp or container, ~~or any w~~Waste ~~e~~Oil container, ~~or any other container~~ provided by the City or the City's authorized ~~solid waste~~Solid Waste ~~e~~Collector, ~~the City's Authorized Organic Material Collector~~, or the City's authorized residential ~~r~~R Recycling collector except for such container's intended use.

SECTION 59. Section 9.10.1120 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1120 Residential Source Reduction and Recycling Fee

- A. Each ~~r~~R Residential ~~solid waste~~Solid Waste ~~g~~G Generator in the City shall pay a Source Reduction and Recycling Fee as set forth in the Schedule of Fees adopted by resolution of the City Council. Such fee shall be used to pay the costs incurred by the City in: (i) preparing, adopting and implementing the Integrated Waste Management Plan required under Division 30 of the California Public Resources Code; and (ii) implementing Organic Material and Recyclable Materials diversion programs and services for compliance with current and future applicable law, including, but not limited to, AB 341, AB 1826, and SB 1383. However, the City shall retain the sole right to set priorities for the use of its Source Reduction and Recycling Fee.
- B. Each ~~r~~R Residential ~~solid waste~~Solid Waste ~~g~~G Generator shall remit the Source Reduction and Recycling Fee to the City at the same time as the ~~r~~R Residential

~~solid-waste~~Solid Waste ~~g~~Generator remits payment to the City for ~~solid waste~~Solid Waste collection services.

- C. If a ~~r~~Residential ~~solid-waste~~Solid Waste ~~g~~Generator fails or refuses to pay the Source Reduction and Recycling Fee when said fee is due and payable, the unpaid fee shall constitute a delinquent ~~solid-waste~~Solid Waste collection service bill subject to the procedures set out in Part 8 of this Chapter.
- D. For the purposes of this Section, the ~~solid-waste~~Solid Waste ~~g~~Generator at ~~m~~Multi--f~~F~~amily ~~e~~D~~w~~ellings shall be deemed to be the ~~owner~~Owner of the ~~m~~Multi--f~~F~~amily ~~e~~D~~w~~elling.
- E. For the purposes of this Section, the ~~solid-waste~~Solid Waste ~~g~~Generator at a mobilehome park shall be deemed to be the ~~owner~~Owner of the mobilehome park.

SECTION 60. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.1130 Additional Multi-Family Dwelling Requirements

This Section shall apply to Multi-Family Dwellings with five (5) or more individual dwelling units, which are considered to be commercial businesses under SB 1383 regulations, unless otherwise specified. The Owner or responsible party of multi-family Premises with five (5) or more units shall:

- A. Provide or arrange for Recyclable Materials, Organic Materials, and Solid Waste collection services consistent with this Chapter for employees, contractors, and Tenants. The responsible party of the multi-family Premises shall subscribe to

and pay for collection services and comply with requirements of those services for all Recyclable Materials, Organic Materials, and Solid Waste/Mixed Waste generated at the multi-family Premises in accordance with this Part. The City shall have the right to review the number and size of the multi-family Premises' collection 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. The responsible party of a multi-family Premises shall adjust their service level for their collection services as requested by the Director or their designee.

B. Allow access to adequate number, size, and location of collection containers with sufficient labels or colors for employees, contractors, Tenants, and customers, consistent with City's Recyclable Materials container, Organic Materials container, and Solid Waste container collection service or, if self-hauling, consistent with the multi-family Premises' approach to complying with Self-Hauler requirements in Section 9.10.565.

C. Annually provide information to employees, contractors, Tenants, and customers about Recyclable Materials and Organic Material recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste/Mixed Waste.

D. Provide education information before or within fourteen (14) days of occupation of the Premises to new Tenants that describes Source Separation requirements under the City's collection programs for Recyclable Materials, Yard Waste, Organic Materials, Mixed Waste, and other Solid Waste, as applicable; and the location of containers and the rules governing their use at each property.

E. Provide or arrange access for the Director or their designee to their properties during all inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.

SECTION 61. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.1140 Residential Care Facilities Serving Six Persons or Fewer

Residential Care Facilities serving six (6) persons or fewer shall be treated as a residential premise subject to the requirements of this Part. However, such facilities may choose to be served by the Commercial Solid Waste hauler and subject to the requirements of Part 9.

SECTION 62. Section 9.10.1370 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1370 Recyclables and Organic Materials Collection Authorization Required

- A. No person shall engage in the business of collection of ~~recyclable material~~Recyclable Material or Organic Materials from ~~e~~Commercial ~~p~~Premises unless such person has a valid ~~e~~Commercial ~~solid-waste~~Solid Waste and recyclables collection franchise and/or Organic Materials collection franchise, as applicable, granted pursuant to Part 11 of this Chapter.
- B. A person shall be deemed to be engaged in the business of collection of ~~recyclable material~~Recyclable Material or Organic Materials, when such person removes from the ~~p~~Premises ~~recyclable material~~Recyclable Materials or Organic Materials which have been segregated from other ~~solid-waste~~Solid Waste and

stored in a container separate from other ~~solid waste~~Solid Waste, whether or not such person receives compensation for ~~h~~Handling the ~~recyclable material~~Recyclable Material or Organic Materials if such person is compensated for other services.

C. A person shall not be deemed to be engaged in the business of ~~recyclable material~~Recyclable Material or Organic Materials collection where the removal is of the following material:

1. Source ~~s~~Separated recyclables ~~s or Organic Materials~~ or Organic Materials sold or donated by the ~~g~~Generator where the ~~g~~Generator does not incur any cost for collection, transportation, ~~p~~Processing or any other service provided by the person collecting the ~~recyclable material~~Recyclable Material or Organic Materials.
2. Secure document shredding.
3. ~~Recyclable material~~Recyclable Material or Organic Materials that ~~is~~are generated at a ~~e~~Commercial ~~p~~Premises that is transported by the ~~g~~Generator, in a vehicle owned by the Generator or Generator's company and operated by the Generator or an employee of the Generator's company, for which there is no compensation to the hauler.
4. Food scraps that are separated by the Generator and used by the Generator or distributed to other person(s) for lawful use as animal feed, in accordance with 14 CCR Section 18983.1(b)(7).
5. Organic Material composted or otherwise legally managed at the site where it is generated or at a Community Composting site.

SECTION 63. Section 9.10.1380 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1380 Mandatory Solid Waste, Recyclable Materials, and Organic Materials Collection

- A. The ~~owner~~Owner of a ~~e~~Commercial ~~p~~Premises or the ~~g~~Generator of ~~solid waste~~Solid Waste at such ~~p~~Premises or the agent of the ~~owner~~Owner or ~~g~~Generator shall subscribe to and pay for ~~solid waste~~Solid Waste, Recyclable Materials, and Organic Materials collection services provided by a ~~solid waste~~Solid Waste ~~e~~Collector authorized to provide ~~e~~Commercial ~~solid waste~~Solid Waste Waste collection services pursuant to Section 9.10.1350.
- B. The minimum level of service to which the ~~owner~~Owner, ~~g~~Generator or agent shall subscribe shall be the number and size of ~~solid waste~~Solid Waste containers suitable for ~~g~~Garbage collection and the frequency of collection which is necessary for the removal and disposal of all ~~solid waste~~Solid Waste generated at the ~~p~~Premises, which shall be not less than one (1) time per week excluding source-separated recyclable materials, in a seven-day period.
- C. The minimum level of service necessary for the ~~removal and disposal~~collection of all ~~solid waste~~Solid Waste, ~~excluding source-separated recyclable material~~Recyclable Materials, and Organic Materials, generated at any ~~e~~Commercial ~~p~~Premises in a seven (7)-day period shall be determined by the ~~owner~~Owner, ~~g~~Generator or agent and the ~~solid waste~~Solid Waste ~~e~~Collector. In the event the ~~owner~~Owner, ~~g~~Generator or agent and the ~~solid waste~~Solid Waste ~~e~~Collector do not agree on the minimum level of service necessary, such determination shall be made by the Director or the Health Officer and shall be a

minimum of thirty-two (32) gallons of Recycling collection service and thirty-two (32) gallons of organics Recycling collection service for every one (1) cubic yard of Solid Waste generated per week. In other words, for every two (2) cubic yards of Solid Waste generated per week, there must be at least sixty-four (64) gallons of Recycling collection service and sixty-four (64) gallons or organics Recycling collection service per week. The Director or their designee may grant exemptions to this requirement if the business can demonstrate that they do not produce thirty-two (32) gallons of Organic Material or thirty-two (32) gallons of Recycling per week.

D. The Director or their designee shall have the right to review the number and size of a Commercial Premises' containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation and containment of materials. The responsible party of the commercial business shall adjust their service level for their collection services as requested by the Director or their designee.

E. Nothing in this Chapter prohibits an Owner or a Generator of a commercial business from preventing or reducing discarded materials generation, managing Organic Material on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

SECTION 64. Section 9.10.1395 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1395 Recycling and Organic Material Containers Permitted

- A. All ~~r~~Recycling and Organic Material containers used in the City shall be nonabsorbent, watertight, vector-resistant, durable, easily cleanable, and designed for safe ~~h~~Handling.
- B. The ~~g~~Generator shall keep and maintain all ~~r~~Recycling and Organic Material containers in a place or manner that does not impede normal vehicular traffic, public transportation or pedestrian or wheelchair access to public rights-of-way except when the containers are set out for collection.
- C. The ~~g~~Generator shall not cause or permit any ~~r~~Recycling container or an Organic Material container to be filled in a manner which causes the container to overflow, or any offensive vapors, gases or odors to leak from the container except when the ~~recyclable material~~Recyclable Material or Organic Material is being placed into or removed from the ~~r~~Recycling or Organic Material container. Placing the ~~recyclable~~ container inside of an enclosure or providing a permanent/affixed lid are acceptable forms of covering the container. Roll-off boxes shall be covered by tarps or other covers which prevent water from intruding into the container.
- D. The ~~g~~Generator shall keep ~~the any~~ ~~r~~Recycling or Organic Material container clean and sanitary; and maintain the ~~recycling~~ container as may be necessary to repel and keep away flies and rodents.
- E. The ~~g~~Generator shall not cause or permit the ~~recyclable material~~Recyclable Material or Organic Material to be so compacted or otherwise placed, kept or accumulated in any ~~recycling~~ container in a manner which does not allow the

contents of the ~~recycling~~ container to fall out, by their own weight, upon the container being lifted and turned upside down.

F. No ~~owner~~Owner of any ~~e~~Commercial ~~p~~Premises and no ~~g~~Generator of ~~recyclable material~~Recyclable Material or Organic Material at such ~~p~~Premises shall store or accumulate ~~recyclable material~~Recyclable Material or Organic Material at such ~~p~~Premises except in a container described in Section 9.10.1390 or in a container meeting one of the following descriptions:

1. A roll-off box: A metal container that must be loaded on a collection vehicle and has the capacity to contain to forty (40) cubic yards of material.
2. A front-load container: A collection container designed to be emptied mechanically by a collection vehicle, is constructed of metal or plastic, and is one (1) to eight (8) cubic yards in size.
3. Other types: Recycling container composed of durable plastic (such as carts and woven polypropylene bags) or metal that are designed to collect ~~solid waste~~Solid Waste.

G. The ~~owner~~Owner of any ~~r~~Recycling container or Organic Material container used for the storage or accumulation of ~~recyclable material~~Recyclable Material or Organic Material at ~~e~~Commercial ~~p~~Premises shall maintain the ~~r~~Recycling container free of graffiti, and shall remove any graffiti from such container within forty-eight (48) hours of notification by the City that there is graffiti on the container.

SECTION 65. Section 9.10.1410 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1410 Placement of Solid Waste Containers

No ~~e~~Commercial ~~solid waste~~Solid Waste ~~e~~Container or ~~r~~Rubbish container shall be kept or permitted to remain upon the public Furnishing Zone/Parkstrip, as defined in Section 11.04.110, except during the twelve (12) hours immediately preceding the scheduled time of collection by the ~~solid waste~~Solid Waste ~~e~~Collector and during the six (6) hours immediately following collection. No ~~e~~Commercial ~~solid waste~~Solid Waste or ~~r~~Rubbish container shall otherwise be placed, kept or maintained within or upon any public sidewalk, Furnishing Zone/Parkstrip, curb, gutter, alley, street, or other public right-of-way.

SECTION 66. Section 9.10.1420 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1420 Labeling and Color of Solid Waste Containers

Each commercial ~~solid waste~~-container that is provided at any ~~e~~Commercial ~~p~~Premises by ~~a solid waste~~an authorized collector for collection of Solid Waste, Recyclable Materials, or Organic Materials shall be labeled by the ~~solid waste~~authorized collector with the name and telephone number of the ~~solid waste~~authorized collector. Each container must include text which reads "Clean Up All Leaks/Spills Promptly." All labels required by this Section shall be in letters not less than four (4) inches high. Containers provided by an authorized collector shall comply with the container color and label requirements and compliance timeline set forth in 14 CCR, Division 7, Chapter 12, Article 3, or as otherwise specified by the Director.

SECTION 67. Section 9.10.1430 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1430 Hours of Collection

- A. No ~~solid waste~~Solid Waste, Organic Materials, or ~~e~~Commingled ~~r~~Recyclables shall be collected, taken, moved or transported from any ~~e~~Commercial ~~p~~Premises that is within three hundred (300) feet of any ~~r~~Residential ~~p~~Premises, except between the hours of 6:00 a.m. and 6:00 p.m. of any day. The Director may grant an exception to these collection limitations if the ~~solid waste~~Solid Waste ~~e~~Collector demonstrates to the satisfaction of the Director that such exception will not create noise, impediment of traffic flow, or other interference with the quiet enjoyment of the ~~r~~Residential ~~p~~Premises.
- B. The Director may impose restrictions on the hours of collection from ~~e~~Commercial ~~p~~Premises in addition to the restrictions set forth in subsection A. if the Director determines that additional time limitations are needed to mitigate an impediment to traffic flow on an interference with the quiet enjoyment of adjacent ~~r~~Residential ~~p~~Premises.
- C. The limitations in this ~~s~~Section do not apply to ~~solid waste~~Solid Waste, Organic Materials, or recyclables collection from City facilities or to ~~solid waste~~Solid Waste, Organic Materials, or recyclables collection performed in connection with City-sponsored activities or events.

SECTION 68. Section 9.10.1435 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1435 Commercial Source Reduction and Recycling Fee

- A. Each ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste ~~g~~G~~enerator~~ in the City shall pay a ~~s~~S~~ource~~ ~~r~~R~~eduction~~ and ~~r~~R~~ecycling~~ ~~f~~F~~ee~~ as set forth in the schedule of fees adopted by resolution of the City Council. Such fee shall be based on the types or amounts of ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste produced and shall be used to pay the costs incurred by the ~~e~~C~~ity~~ in: (i) preparing, adopting and implementing the Integrated Waste Management Plan required under Division 30 of the California Public Resources Code; and (ii) implementing Organic Material and Recyclable Materials diversion programs and services for compliance with current and future applicable law, including, but not limited to, AB 341, AB 1826, and SB 1383. The City shall retain the sole right to set priorities for the use of its Source Reduction and Recycling Fee.
- B. Each ~~C~~e~~ommercial~~ ~~solid waste~~Solid Waste ~~g~~G~~enerator~~ shall pay the ~~s~~S~~ource~~ ~~r~~R~~eduction~~ and ~~r~~R~~ecycling~~ ~~f~~F~~ee~~ to the ~~solid waste~~Solid Waste ~~e~~C~~ollector~~ authorized by the City to provide ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste collection services. Said fee shall be due and payable at such times as the fees or charges for ~~solid waste~~Solid Waste collection services are due and payable to the ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste ~~e~~C~~ollector~~.
- C. The ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste ~~e~~C~~ollector~~ shall remit to the City the ~~s~~S~~ource~~ ~~r~~R~~eduction~~ and ~~r~~R~~ecycling~~ ~~f~~F~~ee~~, paid to the ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste ~~e~~C~~ollector~~ by the ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste ~~g~~G~~enerators~~, at the time the ~~e~~C~~ommercial~~ ~~solid waste~~Solid Waste ~~e~~C~~ollector~~ submits franchise fees under Section 9.10.1710. The fees shall be remitted to the City's Director of Finance and shall be accompanied by a written statement, verified by the person making the payment or a duly authorized representative of the person, showing the calculation of the remitted fees in such form and detail

as the Director of Finance may require and showing such other information as the Director of Finance may determine is material to a determination of the amount due.

- D. If a Commercial ~~solid waste~~Solid Waste Generator fails or refuses to pay the Source Reduction and Recycling Fee when said fee is due and payable, the City may collect the fee, plus any late payment charges set forth in the schedule of fees adopted by resolution of the City Council, directly from the Commercial ~~solid waste~~Solid Waste Generator or from the ~~owner~~Owner of the Premises to which Commercial ~~solid waste~~Solid Waste collection services have been provided by the ~~solid waste~~Solid Waste Collector.
- E. If, within the time specified in Section 9.10.1710, the ~~solid waste~~Solid Waste Collector fails to remit to the City the Source Reduction and Recycling Fees paid to the ~~solid waste~~Solid Waste Collector by the Commercial ~~solid waste~~Solid Waste Generator, the ~~solid waste~~Solid Waste Collector shall pay to the City a late payment charge in an amount equal to ten percent (10%) of the Source Reduction and Recycling Fees that were not timely remitted. If the ~~solid waste~~Solid Waste Collector fails to remit such fees within thirty (30) days of the date required by Section 9.10.1710, the ~~solid waste~~Solid Waste Collector shall pay a second late payment charge in an amount equal to ten percent (10%) of the Source Reduction and Recycling Fees that were not remitted within the thirty (30)-day period. Such second late payment charge shall be in addition to the first late payment charge. In addition, the ~~solid waste~~Solid Waste Collector shall pay interest on all Source Reduction and Recycling Fees that were paid to the ~~solid waste~~Solid Waste Collector by the ~~solid waste~~Solid Waste Generators but not timely remitted to the City at the rate of ten percent (10%) per annum or the legal rate allowed, whichever is less, from the date said fees were due to the date actually remitted.

- F. In the event a Commercial ~~solid waste~~Solid Waste generator fails or refuses to pay the Source Reduction and Recycling Fee to the Commercial ~~solid waste~~Solid Waste Collector at the time the fees or charges for ~~solid waste~~Solid Waste Waste collection services are due and payable to the ~~solid waste~~Solid Waste Collector, the ~~solid waste~~Solid Waste Collector shall notify the City of the name and address of the ~~solid waste~~Solid Waste generator who refused or failed to pay the Source Reduction and Recycling Fee for the applicable reporting period and shall provide to the City such additional account information (including the size of the ~~solid waste~~Solid Waste containers, the frequency of collection, and the amount of the Source Reduction and Recycling Fee the generator failed or refused to pay) sufficient for the City to pursue collection of the unpaid fee from the generator. Such information shall be provided by the Commercial ~~solid waste~~Solid Waste Collector, in the form specified by the Director or the Director of Finance, at the time the Commercial ~~solid waste~~Solid Waste Collector submits franchise fees under Section 9.10.1710. The Commercial ~~solid waste~~Solid Waste Collector may, in lieu of providing the information required by this Subsection F., pay to the City the Source Reduction and Recycling Fees otherwise payable by the Commercial ~~solid waste~~Solid Waste generator.
- G. Any person authorized to perform commercial collection services in the City pursuant to a franchise based on a geographic service district shall pay a Source Reduction and Recycling Fee as set forth in the schedule of fees adopted by resolution of the City Council. Such fee shall be based on the types or amounts of Commercial ~~solid waste~~Solid Waste produced and shall be used to pay the costs incurred by the City in: (i) preparing, adopting and implementing the Integrated Waste Management Plan required under Division 30 of the California Public Resources Code; and (ii) implementing Organic Material and

Recyclable Materials diversion programs and services for compliance with current and future applicable law, including, but not limited to, AB 341, AB 1826, and SB 1383. The City shall retain the sole right to set priorities for the use of its Source Reduction and Recycling Fee.

- H. The ~~C~~ommercial ~~solid waste~~Solid Waste Collector shall remit to the City the ~~S~~ource ~~R~~eduction and ~~R~~ecycling ~~F~~ee at the time the ~~C~~ommercial ~~solid waste~~Solid Waste Collector submits franchise fees under Section 9.10.1710. The fees shall be remitted to the City's Director of Finance and shall be accompanied by a written statement, verified by the person making the payment or a duly authorized representative of the person, showing the calculation of the remitted fees in such form and detail as the Director of Finance may require and showing such other information as the Director of Finance may determine is material to a determination of the amount due.
- I. If, within the time specified in Section 9.10.1710, the ~~solid waste~~Solid Waste Collector fails to remit to the City the ~~S~~ource ~~R~~eduction and ~~R~~ecycling ~~f~~Ees, the ~~solid waste~~Solid Waste Collector shall pay to the City a late payment charge in an amount equal to ten percent (10%) of the ~~S~~ource ~~R~~eduction and ~~R~~ecycling ~~F~~ees that were not timely remitted. If the ~~solid waste~~Solid Waste Collector fails to remit such fees within thirty (30) days of the date required by Section 9.10.1710, the ~~solid waste~~Solid Waste Collector shall pay a second late payment charge in an amount equal to ten percent (10%) of the ~~S~~ource ~~R~~eduction and ~~R~~ecycling ~~F~~ees that were not remitted within the thirty (30)-day period. Such second late payment charge shall be in addition to the first late payment charge. In addition, the ~~solid waste~~Solid Waste Collector shall pay interest on all ~~S~~ource ~~R~~eduction and ~~r~~ecycling ~~f~~Ees that were not timely remitted to the City at the rate of ten percent (10%) per annum or the legal rate

allowed, whichever is less, from the date said fees were due to the date actually remitted.

SECTION 69. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.1436 Other Requirements for Commercial Businesses

- A. Owners of commercial businesses shall supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Section 9.10.1436.B below) for employees, contractors, Tenants, and customers, consistent with City's Recyclable Materials container, Organic Materials container, and Solid Waste container collection service or, if self-hauling, consistent with the Commercial Premises' approach to complying with Self-Hauler requirements.
- B. Owners of commercial businesses shall provide containers for the collection of Source Separated Recyclable Materials and Source Separated Organic Materials in all indoor and outdoor areas where Solid Waste containers are provided for customers, for materials generated by that commercial business. Such containers shall be visible and easily accessible. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one type of container, then the commercial business does not have to provide that particular container in all areas where Solid Waste containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the commercial business shall have one (1) or both of the following:

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. The commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of this 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.

C. To the extent practical through education, training, Inspection, and/or other measures, the Owner of the commercial business shall prohibit employees from placing materials in a container not designated for those materials per the City's Recyclable Materials, Organic Materials, and Solid Waste collection service or, if self-hauling, per the instructions of the commercial business' responsible party to support its compliance with requirements of this Chapter.

D. The Owner of the commercial business shall periodically inspect Recyclable Materials containers, Organic Materials containers, and Solid Waste containers for Prohibited Container Contaminants 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).

- E. The Owner of the commercial business shall annually provide information to employees, contractors, Tenants, and customers about Recyclable Materials and Organic Material recovery requirements and about proper sorting of Recyclable Materials, Organic Materials, and Solid Waste.
- F. The Owner of the commercial business shall provide education information before or within fourteen (14) days of occupation of the Premises to new Tenants that describes requirements to Source Separate Recyclable Materials, Organic Materials, and Solid Waste in accordance with the City's collection programs and the location of containers and the rules governing their use at each property.
- G. The Owner of the commercial business shall provide or arrange access for the Director or their designee to their properties during all inspections conducted in accordance with this Chapter to confirm compliance with the requirements of this Chapter.
- H. If the Owner of a commercial business wishes to self-haul materials, the Owner of the commercial business shall meet the self-haul requirements of this Chapter.

SECTION 70. Section 9.10.1445 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1445 Large Event and Large Venue Requirements

- A. Any person seeking permission to conduct a Large Event, as defined in Part 2, where the event generates ~~solid waste~~ Solid Waste such as, but not limited to, paper, beverage containers, or food shall develop a waste reduction and Recycling strategy and shall file a copy of the strategy with the City's Director of

Environmental Services. The waste reduction and ~~R~~ecycling 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, and compostable materials. Within ten (10) calendar days after the conclusion of the event, the applicant shall submit to the Director of Environmental Services a copy of all weight or cubic yardage receipts for the ~~solid waste~~Solid Waste and for the recyclables and Organic Materials from the receiving waste hauler, service charity, ~~R~~ecycling ~~C~~enter, or other such entity receiving the materials. Alternative documentation of diversion from the landfill may be acceptable if approved by the Director of Environmental Services at the time the strategy is filed with the Director.

- B. All Large Venues, as defined in Part 2, shall prepare and adopt an annual waste prevention strategy to reduce the amount of waste material generated by facility operations, and shall file a copy of the strategy with the Director of Environmental Services on or before January 31 of each calendar year. The venue facility ~~owner~~Owner or manager shall submit an annual report to the Director of Environmental Services that lists the weight or cubic yardage of ~~solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Materials generated at the venue facility during the twelve (12) months from September 1 of a calendar year to August 31 of the next calendar year and the type, amount (by weight or cubic yardage), and destination of all ~~solid waste~~Solid Waste disposed and each ~~recyclable material~~Recyclable Material sold or donated during that twelve (12) month period.
- C. The Director of Environmental Services may exempt an event operator described in ~~S~~ubsection A. or a venue facility ~~owner~~Owner from some of the requirements of this Section if the Director determines that the event or venue facility does not

generate significant amounts of ~~solid waste~~Solid Waste or recyclables or because of localized market conditions for a particular ~~recyclable material~~Recyclable Material.

D. Large Events and Large Venues that qualify as commercial Edible Food Generators, as defined in Part 18, shall additionally comply with the Edible Food recovery requirements set forth in Part 18.

SECTION 71. Part 10 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

Part 10

SPECIAL PROVISIONS FOR CENTRAL BUSINESS DISTRICT AND TRANSIT MALL
ZONE

9.10.1500 Central Business District - Described - Collection Hours and Procedures

A. Notwithstanding any other provisions of this Chapter, the following regulations shall apply to the collection of ~~solid waste~~Solid Waste and ~~Ce~~Commingled Rrecyclables in that area of the City designated as the "Central Business District," the boundaries of which are described as follows: Commencing at Market and Julian Streets; east on Julian to Fourth Street; then south on Fourth Street to San Salvador; west on San Salvador to South Market Street; then northwest on Market Street to San Carlos Street; west on San Carlos to Almaden Boulevard; north on Almaden Boulevard to Santa Clara Street; east on Santa Clara Street to Market Street; then north on Market Street to West Julian Street, the point of beginning.

- B. Unless expressly exempted therefrom by the Director, all occupants of ~~P~~Premises within the Central Business District (excepting occupants of hotel rooms and persons to whom ~~solid waste~~Solid Waste or recyclables collection services are provided by and at the expense of another) shall subscribe to ~~solid waste~~Solid Waste collection service from a ~~solid waste~~Solid Waste ~~C~~Collector authorized to provide ~~solid waste~~Solid Waste, Organic Materials, and recyclables collection services under the provisions of this Chapter. Such subscription shall be for service on at least a weekly basis, or more often as required by the Director.
- C. The ~~g~~Generator shall place all ~~solid waste~~Solid Waste containers, all Organic Materials containers, and all ~~C~~Commingled ~~R~~Recyclables containers in an accessible location in a smooth, hard-surfaced area for collection only between the hours of 10:00 p.m. of the day immediately preceding collection and 6:00 a.m. of the day of collection.
- D. ~~Solid waste~~Solid Waste, Organic Materials, and recyclables collection shall include both sides of the boundary streets described in this ~~s~~Section.
- E. Collections shall take place not earlier than 12:01 a.m. and shall be completed by 6:00 a.m. on the same day except as follows:
1. The Director may grant an exception to these collection limitations if the ~~solid waste~~Solid Waste ~~c~~Collector demonstrates to the satisfaction of the Director that such exception will not impede the flow of traffic in the Central Business District and will not in any way interfere with or hinder either the normal operation or maintenance of the Central Business District or the services provided in said district.

2. The Director may impose restrictions on the hours of collection in addition to the restrictions set forth in this subsection E. if the Director determines that additional time limitations are needed to mitigate an impediment to traffic flow, an interference with the normal operation or maintenance of the Central Business District, or an interference with the quiet enjoyment of adjacent ~~R~~residential ~~p~~Premises.
- F. Following collection, the collector shall place emptied ~~solid waste~~Solid Waste containers, Organic Materials containers, and ~~e~~Commingled ~~R~~recyclables containers back on the curb in a neat and orderly manner with their lids firmly replaced.
- G. The ~~G~~enerator shall remove all emptied ~~solid waste~~Solid Waste containers, Organic Materials containers, and ~~C~~ommingled ~~R~~recyclables containers from the curb, sidewalk or other public right-of-way not later than 9:00 a.m. on the same day that collection occurs, except where the Director has granted an exception to the collection time limitations pursuant to subsection E. above and such exception expressly permits removal after 9:00 a.m.
- H. All ~~solid waste~~Solid Waste, Organic Materials, and ~~C~~ommingled ~~R~~recyclables containers shall be one (1) of the following:
1. A standard thirty-two (32)-gallon ~~S~~garbage-~~olid~~ Waste can with a tight-fitting lid which together with its contents does not exceed a weight of sixty (60) pounds.
 2. A standard metal storage/collection bin with a metal cover or a plastic cover approved by the Director, provided by the ~~solid waste~~Solid Waste

~~€~~Collector and which together with its contents does not exceed a weight of two (2) pounds per gallon of container capacity.

3. A wheeled ~~disposal-collection~~ cart with a tight-fitting lid which is provided by the ~~solid waste~~Solid Waste ~~C~~ollector, is designed for use by semiautomatic or automatic collection equipment and which together with its contents does not exceed a weight of two (2) pounds per gallon of capacity.
4. If approved for uncontainerized collection, A plastic ~~disposal-collection~~ bag, of a type approved by the Director, with wire-tie closure which together with its contents does not exceed a weight of sixty (60) pounds.

9.10.1510 Establishment of Transit Mall Zone

- A. There is hereby established the "Transit Mall Zone," the boundaries of which are as follows: Commencing at Market and Julian Streets; east on Julian Street to Third Street, then south on Third Street to San Carlos Street; then west on San Carlos Street to Market Street; then north on Market Street to Julian Street, the point of beginning; but excluding any ~~P~~remises which face Julian, Third, San Carlos or Market Streets.
- B. The regulations set forth in Section 9.10.1500 shall apply to the collection of ~~solid waste~~Solid Waste, Organic Materials, and ~~C~~ommingled ~~R~~ecyclables from all ~~P~~remises located in the Transit Mall Zone which have rear access for ~~solid waste~~Solid Waste, Organic Materials, or recyclables collection and where all ~~solid waste~~Solid Waste, Organic Materials, and/or recyclables ~~is-are~~ collected from the rear access location.

- C. In addition to the regulations set forth in Section 9.10.1500, the regulations contained in Section 9.10.1520 shall apply to the collection of ~~solid waste~~Solid Waste, Organic Materials, and ~~C~~ommingled ~~R~~ecyclables from all ~~P~~remises located in the Transit Mall Zone which do not have rear access for ~~solid waste~~Solid Waste collection or where ~~solid waste~~Solid Waste, Organic Materials, collection or ~~C~~ommingled ~~R~~ecyclables collection is from a location other than the rear access location.

9.10.1520 Solid Waste Collection Regulations for Transit Mall Zone

- A. No person shall keep or maintain any ~~solid waste~~Solid Waste, solid wasteSolid Waste container, Organic Materials container, ~~C~~ommingled ~~R~~ecyclables, or ~~C~~ommingled ~~R~~ecyclables container at, nor shall any person collect ~~solid waste~~Solid Waste, Organic Materials, or ~~e~~Commingled ~~R~~ecyclables from, any ~~P~~remises located in the Transit Mall Zone established by Section 9.10.1510 and described in Section 9.10.1510.C. except in conformance with the regulations set forth in this Section.
- B. All ~~solid waste~~Solid Waste, Organic Materials, and ~~C~~ommingled ~~R~~ecyclables containers shall be standard metal or plastic containers approved by the Director, equipped with plastic or rubber wheels and tight-fitting lids, and designed for use by semiautomatic or automatic collection equipment.
- C. No ~~solid waste~~Solid Waste shall be placed outside any ~~P~~remises in any container other than the standard containers described in subsection B. unless the ~~solid waste~~Solid Waste ~~g~~Generator has applied to the Director for an exemption to the requirements of subsection B. and the Director grants such exemption after finding all of the following:

1. No ~~g~~Garbage is produced on the ~~P~~Premises; and
2. Space for ~~solid waste~~Solid Waste storage inside or behind the ~~P~~Premises is so limited as to preclude the storage of the standard container described in subsection B.; and
3. The ~~g~~Generator will use only disposal bags of sufficient quality and specification ~~which meet the following requirements:~~
 - a. ~~The bags have a minimum circumference of sixty inches and a minimum inner dimension of thirty-seven inches.~~
 - b. ~~The bags are readily opened by hand and have a slip coefficient between 0.1 and 0.25.~~
 - c. ~~Any heat seal shall withstand a ten-minute tensile loading of one pound/inch of seal without failure.~~
 - d. ~~The bags can withstand a drop of five feet onto smooth concrete when filled to a total weight of thirty pounds with a material having a weight density of fifteen pounds per cubic foot.~~
 - e. ~~The bags have a minimum weight of one hundred five pounds per one thousand bags, exclusive of packaging and ties.~~
 - f. ~~The bags are securely closed with a five-inch wire-tie closure or its equivalent.~~

~~g. Film for bags shall be manufactured from polyethylene or ethylene copolymer resin and shall comply with the following:~~

~~i. Dart impact strength at fold and seals shall not be less than sixty grams;~~

~~ii. The normal gauge of the film shall be not less than three mils with point to point variation not to exceed plus or minus twenty degrees.~~

~~4. The exemption granted under this subsection C. may be rescinded by the Director or the City Council at any time upon notice to the generator.~~

D. All ~~solid waste~~Solid Waste containers described in subsection B., all Organic Materials containers, and all ~~C~~ommingled ~~R~~ecyclables containers shall be clearly marked by the ~~g~~enerator or the collector to show the name and address of the ~~G~~enerator or shall be clearly identified by such other means as is approved by the Director. All containers shall comply with the labeling and color requirements of Section 9.10.1420.

E. All ~~solid waste~~Solid Waste containers, all Organic Materials containers, and all ~~e~~ommingled ~~r~~ecyclables containers shall be kept and maintained in conformance with Section 9.10.1500, except that the gross weight for any container described in subsection B. of this ~~s~~ection shall not exceed two (2) pounds for each one (1) gallon of container volume.

F. ~~Solid waste~~Solid Waste, Organic Materials, and ~~C~~ommingled ~~R~~ecyclables collections shall take place no earlier than 12:01 a.m. and shall be completed by 6:00 a.m. the same day except as follows:

1. The Director may grant an exception to these collection limitations if the ~~solid waste~~Solid Waste, Organic Materials, or ~~C~~ommingled ~~R~~ecyclables collector demonstrates to the satisfaction of the Director that such exception will not impede the flow of traffic in the Transit Mall Zone and will not in any way interfere with or hinder either the normal operation or maintenance of the Transit Mall Zone or the services provided in said Zone.
 2. The Director may impose restrictions on the hours of collection in addition to the restrictions set forth in this subsection F. if the Director determines that additional time limitations are needed to mitigate an impediment to traffic flow, an interference with the normal operation or maintenance of the Transit Mall Zone, or an interference with the quiet or enjoyment of adjacent ~~R~~esidential ~~P~~remises.
- G. All ~~solid waste~~Solid Waste containers, Organic Materials containers, and ~~C~~ommingled ~~R~~ecyclables containers, including disposal bags, if allowed pursuant to subsection C., shall be kept or stored within or behind the ~~g~~enerator's ~~P~~remises at all times except that containers may be set out for collection between the hours of 10:00 p.m. of the day immediately preceding to collection and 6:00 a.m. of the day of collection. Containers shall be permitted to remain in the set-out location after 6:00 a.m. only in the case where the Director has granted an exception to the collection time limitations pursuant to subsection F. above and such exception expressly permits removal of containers after 6:00 a.m.
- H. All ~~solid waste~~Solid Waste containers, Organic Materials containers, and ~~C~~ommingled ~~R~~ecyclables containers set out for collection, including disposal

bags, if allowed pursuant to subsection C., shall be placed at or behind the building line of the Premises or in a recessed doorway of the Premises. Containers placed in recessed doorways shall not be placed in any manner that would hinder ingress or egress of emergency services personnel or, during business hours, members of the public.

- I. If any provision of this Section conflicts with a provision of Section 9.10.1500, the provision contained in this Section shall prevail.

SECTION 72. The title of Part 11 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

Part 11
COMMERCIAL SOLID WASTE, ORGANIC MATERIALS, AND RECYCLABLES
COLLECTION FRANCHISES

SECTION 73. Section 9.10.1600 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1600 Purpose and Declarations

- A. It is hereby declared and determined that the business of collecting and transporting of Commercial ~~solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Materials generated, kept or accumulated in the City, or of disposing of such Commercial ~~solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Materials, is in the nature of a public service and should be regulated by the City. The use of any public street or public property in connection with such business is of great concern to the City

and should be regulated by the City. Therefore, it is the purpose of this ~~p~~Part to provide such regulation.

- B. Pursuant to the provisions of Article XIII of the City Charter, the City hereby elects to have the grant of franchises governed by this Part, and any ordinances amendatory thereof, together with the applicable provisions of the City Charter, and these provisions shall constitute the exclusive procedure applicable to the granting of franchises for the conduct of the business of collecting, transporting or disposing of ~~C~~eommercial ~~solid waste~~Solid Waste, Organic Materials, or ~~recyclable material~~Recyclable Material.

SECTION 74. Section 9.10.1610 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1610 Activities Which Are Unlawful Unless Authorized

No person shall engage in the business of collecting, transporting or disposing of ~~C~~eommercial ~~solid waste~~Solid Waste, Organic Materials, or ~~recyclable material~~Recyclable Material kept, accumulated or generated in the City unless:

- A. A franchise therefore has first been granted pursuant to the provisions of this Part and such franchise is in full force and effect; and
- B. A written franchise agreement therefore has been executed between such person and the City and such agreement is in full force and effect.

SECTION 75. Section 9.10.1620 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1620 Franchise - Council Authority to Grant

The Council may and is hereby empowered to grant by ordinance to any person, whether operating under an existing franchise or not, a franchise to engage in the business of collecting, transporting, or disposing of ~~Ceommercial solid-waste~~Solid Waste, Organic Materials, or ~~recyclable material~~Recyclable Material kept, accumulated or generated in the City.

SECTION 76. Section 9.10.1635 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1635 Franchise Categories

The City Council may, in its sole discretion, grant a ~~Ceommercial solid-waste~~Solid Waste and ~~recyclable material~~Recyclable Material collection franchise which is limited to the collection of ~~solid-waste~~Solid Wastes, Organic Materials, or ~~recyclable material~~Recyclable Material in categories determined by the City Council and described in the ordinance granting the franchise or in the franchise agreement.

SECTION 77. Section 9.10.1640 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1640 Application for Franchise

- A. All applications for franchises pursuant to this Part shall be in writing and shall be filed with the Director.

- B. Each application for a franchise shall be on a form provided by the Director, shall include all attachments required by the Director, and shall contain the following information:
1. The name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall be set forth in the application. If the applicant is a corporation, the application shall state the names and addresses of the corporation's directors, main offices, major stockholders and associates, and the names and addresses of the parent and subsidiary companies.
 2. The names of the executive, operational and financial managers to be used in connection with the ~~solid waste~~Solid Waste and recyclables collection services, together with documentation that such persons and the applicant have sufficient experience in ~~solid waste~~Solid Waste ~~h~~Handling to perform ~~solid waste~~Solid Waste, Organic Materials, and recyclables collection services in the City.
 3. A list of all vehicles, including license plate numbers and vehicle identification numbers, to be used in connection with the franchise for which the application is filed.
 4. Proof satisfactory to the Director that the applicant has adequate financial resources to conduct the ~~C~~commercial ~~solid waste~~Solid Waste collection services.
 5. Such additional information as may be reasonably requested by the Director.

- C. The application shall be signed by the person applying for the ~~solid waste~~Solid Waste, Organic Materials, and recyclables collection franchise or by a person authorized to bind the applicant.

SECTION 78. A new section is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

9.10.1685 Other Commercial Franchise Requirements

A. Franchise grantees providing Recyclable Materials, Organic Materials, or Solid Waste collection services to Generators within the City's boundaries shall meet the following requirements and standards with the City to collect Recyclable Materials, Organic Materials, or Solid Waste:

1. Through written notice to the Director annually, identify the facilities to which they will transport discarded materials, including facilities for Source Separated Recyclable Materials, Source Separated Organic Materials, Garbage, and other Solid Waste unless otherwise stated in the franchise agreement or other authorization with the City.

2. Transport Source Separated Recyclable Materials to a facility that recovers those materials; transport Source Separated Organic Materials to a facility, operation, activity, or property that recovers Organic Material as defined in 14 CCR, Division 7, Chapter 12, Article 2; transport Mixed Waste, if applicable, to a facility that qualifies as a High Diversion Organic Waste Processing Facility; transport Solid Waste to a disposal facility or transfer facility or operation that processes or disposes of Solid Waste; and, transport manure, if applicable, to a facility that manages manure in conformance with 14 CCR Article 12 and such that the manure is not

landfilled, used as alternative daily cover, or used as alternative intermediate cover.

3. Obtain approval from the City to haul Organic Material, unless it is transporting Source Separated Organic Material 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 City's municipal code.

B. Collectors authorized to collect Recyclable Materials, Organic Materials, or Solid Waste shall comply with the education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements set forth in this Chapter, its franchise agreement with the City, and applicable law.

SECTION 79. Section 9.10.1690 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1690 Termination or Suspension of Franchise

A. The City Council shall have the right to terminate any franchise granted pursuant to this Part if the council finds, after a public hearing following not less than fourteen (14) days written notice to the franchise grantee, that:

1. The grantee has failed to comply with, or to do anything required of the grantee by, applicable provisions of the City Charter, provisions of this Chapter 9.10, provisions of the ordinance granting the franchise, or provisions of the franchise agreement; or

2. Any provision of this Part becomes or is declared to be invalid and the Council expressly finds that such provision constitutes a material consideration to the grant or continuation of such franchise.
- B. Any franchise granted pursuant to this Part shall automatically be suspended whenever the grantee:
1. Fails to keep in full force and effect the bonds and insurance required by the franchise agreement; or
 2. Fails to keep in full force and effect any applicable licenses or permits required by federal, state or local law.

The suspension of the franchise pursuant to this subsection B. shall remain in effect until the grantee provides documentation satisfactory to the Director, demonstrating that the reason for the suspension specified above no longer exists.

- C. The Director may suspend any franchise granted under this Part if the grantee:
1. Fails to submit timely reports as described in Section 9.10.1720 within fifteen (15) days after written notice from the Director that a report is delinquent; or
 2. Fails to comply with the reporting requirements of subsection A. of Section 9.10.1720 and fails to correct the deficiencies in the report within fifteen (15) days after written notice from the Director of the deficiencies.

The suspension of the franchise pursuant to this subsection C. shall remain in effect for the period specified in the Director's notice unless the suspension is reversed or modified by the ~~D~~irector or, upon appeal by the grantee, by the City Council.

- D. In the event the franchise granted pursuant to this Part is terminated, the grantee shall have no right or authority to engage in ~~C~~ommercial ~~solid waste~~Solid Waste or ~~recyclable material~~Recyclable Material collection, transportation or disposal operations in the City unless and until a subsequent ~~C~~ommercial ~~solid waste~~Solid Waste and ~~recyclable material~~Recyclable Material collection franchise is granted to the grantee. Nothing herein shall require the City to grant any subsequent franchise to the grantee.
- E. In the event the franchise granted pursuant to this Part is suspended, the grantee shall have no right or authority to engage in ~~C~~ommercial ~~solid waste~~Solid Waste or ~~recyclable material~~Recyclable Material collection, transportation or disposal operations in the City during the period of suspension.
- F. In the event any franchise granted pursuant to this Part is terminated under subsection A. above, then within the time period specified by the City Council, the grantee shall:
1. Remove all of the grantee's, and any subcontractor's, ~~solid waste~~Solid Waste containers, Organic Materials containers, and ~~recyclable material~~Recyclable Material containers from all service locations where services have been provided pursuant to such franchise; and

2. Properly collect, transport, and process or dispose of any and all ~~solid waste~~Solid Wastes, Organic Materials, and recyclables in the containers at the time of removal, in accordance with this Chapter.
- G. If the grantee fails to remove any ~~solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Material container or to properly dispose of any ~~solid waste~~Solid Waste, Organic Materials, or ~~recyclable material~~Recyclable Material in any container within the time specified by the City Council pursuant to subsection A. above, the City may remove the container and/or dispose of the ~~solid waste~~Solid Waste, Organic Materials, or ~~recyclable material~~Recyclable Material therein and may charge the grantee for the City's costs. The grantee shall pay to the City all of the costs incurred by the City in such removal and/or disposal within ten (10) days of the date of the City's invoice for such costs.

SECTION 80. Section 9.10.1695 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1695 Maximum Commercial Solid Waste, Organic Materials, and Recyclable Material Collection Service Rate

- A. The ~~C~~commercial ~~solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Material franchisee with a franchise based on geographic service district may apply for an adjustment to the maximum ~~C~~commercial ~~solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Material collection service rate. Any request to adjust the existing maximum service rate shall be in accordance with the application process, methodology, and other factors specified in the franchise agreement.

- B. The City Council may conduct a public hearing to confirm that the proposed maximum ~~Ceommercial solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Material collection service rates are consistent with the terms of the franchise agreement.
- C. Franchisee shall provide all customers with advance written notice of changes to the maximum ~~Ceommercial solid waste~~Solid Waste, Organic Materials, and ~~recyclable material~~Recyclable Material collection service rates at least thirty (30) calendar days prior to the effective date of the change.

SECTION 81. Section 9.10.1710 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1710 Franchise Fees

- A. Each person engaging in the business of collecting, transporting or disposing of ~~Ceommercial solid waste~~Solid Waste, Organic Materials, or ~~recyclable material~~Recyclable Material kept, accumulated or generated in the City shall pay a franchise fee to the City. The franchise fee shall be in an amount as set forth in a resolution adopted by the City Council.
- B. Franchise fees shall be payable on a monthly basis, and shall be due and payable on the last day of the month immediately following the month in which collection services were provided. Each payment shall be calculated in accordance with the provisions of the resolution adopted by the City Council pursuant to ~~S~~subsection A. above.
- C. The required franchise fee shall be paid to the City's Director of Finance. Each payment shall be accompanied by a written statement, verified by the person

making the payment, or a duly authorized representative of the person, showing the calculation of the franchise fee payable in such form and detail as the Director of Finance may require and such other information as the Director of Finance may determine is material to a determination of the amount due.

- D. No statement filed under this Section shall be conclusive as to the matters set forth in such statement, nor shall the filing of such statement preclude the City from collecting by appropriate action the sum that is actually due and payable.
- E. The payment of franchise fees to the City pursuant to this ~~p~~Part shall be in addition to any license fee or business tax prescribed by the ~~e~~City for the same period.
- F. If franchise fees are not paid by the grantee at the times required by this Section 9.10.1710, then in addition to the franchise fees, the grantee shall pay a late payment charge in an amount equal to ten percent (10%) of the franchise fee that was not timely paid. If the grantee fails to pay delinquent franchise fees within thirty (30) days of the date required by this Section 9.10.1710, the grantee shall pay a second late payment charge in an amount equal to ten percent (10%) of the franchise fee outstanding after such thirty (30)-day period. Such second late payment charge shall be in addition to the first late payment charge. In addition, the grantee shall pay interest on all unpaid franchise fees at the rate of ten percent (10%) per annum or the legal rate allowed, whichever is less, from the date said franchise fees were due and payable to the date actually paid.

SECTION 82. Section 9.10.1720 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1720 Reports

A. The grantee shall report to the Director the following information:

1. The grantee shall file with the Director a monthly report of the quantities of ~~C~~ommercial ~~solid waste~~Solid Waste, ~~C~~ommingled ~~R~~ecyclables and ~~s~~ource ~~S~~eparated recyclables collected, transported and/or disposed of during the month, the number of San José customers served by the grantee during the month, and the container size(s) and frequency of collection performed for each customer, and the grantee's gross receipts for collection services provided in San José during the month. Such report shall be in such form and detail as required by the Director and, if required by the Director, shall include a report of the quantities of ~~C~~ommercial ~~solid waste~~Solid Waste recycled and the quantities disposed of at disposal facilities.

2. Through written notice to the City annually, the grantee shall identify the facilities to which it will transport materials, including facilities for Recyclable Materials, Organic Materials, Mixed Waste, or other Solid Waste as applicable to the grantee's services, unless otherwise stated in the franchise agreement or other authorization with the City.

B. If any of the ~~monthly~~-reports required under ~~S~~ubsection A. ~~is-are~~ not filed by the due date specified in the franchise agreement, the report shall be deemed delinquent.

C. If the report is delinquent, the grantee shall pay to the City a delinquent report charge in the amount of three hundred dollars (\$300.00). If the report remains delinquent for more than fifteen (15) days, the grantee shall pay to the City an

additional delinquent report charge in the amount of three hundred dollars (\$300.00). If the report remains delinquent for more than thirty (30) days, the grantee shall pay to the City a third delinquent report charge in the amount of three hundred dollars (\$300.00). If the report remains delinquent for more than forty-five (45) days, the grantee shall pay to the City a fourth delinquent report charge in the amount of three hundred dollars (\$300.00). Such delinquent report charges shall be in addition to any franchise fees or other charges payable by the grantee for the same period of time.

SECTION 83. Section 9.10.1740 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1740 City Inspection Authority

The grantee shall at all times maintain accurate and complete accounts of all revenues and income arising out of its operations under the franchise granted pursuant to this Part; all ~~solid waste~~Solid Waste collected, transported and/or disposed of; the source of such ~~solid waste~~Solid Waste; and the final destination of such ~~solid waste~~Solid Waste. Grantee's books, accounts and records shall at all times be open to inspection, examination and audit by authorized officers, employees and agents of the City. Grantee shall comply with the recordkeeping and inspection requirements of Section 9.10.590.

SECTION 84. Section 9.10.1810 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.1810 Combined Waste Streams

- A. A ~~M~~ixed ~~U~~se ~~D~~development may commingle the ~~R~~esidential ~~solid waste~~Solid Waste and ~~C~~ommercial ~~solid waste~~Solid Waste generated at the ~~M~~ixed ~~U~~se ~~D~~development; provided that Organic Materials and Recyclable Materials are properly separated and prepared for collection in accordance with the City's collection programs.
- B. The commingled waste shall be collected by the City's authorized ~~m~~Multi-~~F~~-family ~~D~~welling ~~solid waste~~Solid Waste ~~C~~ollector if the total square footage of commercial building space in the ~~M~~ixed ~~U~~se ~~D~~development is less than fifteen percent (15%) of the total building space.
- C. The commingled waste shall be collected by a person authorized to perform ~~C~~ommercial ~~solid waste~~Solid Waste collection services pursuant to a franchise granted pursuant to Part 11 of this Chapter if the total square footage of commercial building space in the ~~m~~Mixed ~~U~~se ~~D~~development is fifteen percent (15%) or more of the total building space.
- D. Notwithstanding subsections B. and C. above, a ~~M~~ixed ~~U~~se ~~D~~development with twenty percent (20%) or less of the total square footage as commercial building space as of June 30, 2012 may continue to receive service from the ~~m~~Multi-~~F~~-family ~~d~~Welling ~~solid waste~~Solid Waste ~~C~~ollector.
- E. Notwithstanding this Section, the Director reserves the right to require the ~~M~~ixed ~~U~~se ~~D~~development to cause the collection of commingled ~~solid waste~~Solid Waste be collected as ~~R~~esidential ~~solid waste~~Solid Waste or as ~~C~~ommercial ~~solid waste~~Solid Waste shall be based upon the needs of the

~~M~~mixed ~~U~~use ~~D~~development and the effect of the ~~solid-waste~~Solid Waste collection service type on the neighboring areas.

SECTION 85. Section 9.10.2240 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.2240 Feeding Swill to Animals - Conditions

- A. No ~~solid-waste~~Solid Waste shall be fed to any animals or livestock in the City unless written permission is first procured from the Director to feed ~~s~~Swill generated within any ~~P~~Premises in the City to animals or livestock lawfully maintained and kept within the ~~P~~Premises where the ~~s~~Swill is generated.
- B. The Director may grant permission, subject to such conditions and restrictions as the Director may find necessary to protect the public health and safety, only if the ~~D~~Director finds the proposed place and manner of disposal will not endanger the public health and safety. Any such permission is revocable at any time by the Director or City Council.
- C. Notwithstanding this Section, Organic Material may be diverted from landfill disposal through lawful use as animal feed, as set forth in Chapter 6 of Food and Agricultural Code (FAC), commencing with Section 14901 et. seq and Title 3, Division 4, Chapter 2, Subchapter 2 commencing with Article 1, Section 2675 of the Code of California Regulations.

SECTION 86. Section 9.10.2480 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.2480 California Green Building Standards Code Compliance

Persons applying for a permit from the City for new construction and building additions and alterations shall comply with the requirements of this Part and all required components of the California Green Building Standards Code, 24 CCR, Part 11 (CALGreen), as amended, if its project is covered by the scope of CALGreen and other applicable requirements of the City. If the requirements of CALGreen, as amended, are more stringent than the requirements of this Part, the CALGreen requirements shall apply.

Notwithstanding any other provision to the contrary, a building permit applicant that documents the completion of a construction waste management plan in accordance with ~~the California Green Building Standards Code~~CALGreen at the following diversion levels shall be deemed in compliance with the provisions of this Part:

- A. For building permit applications filed between January 1, 2011 and December 31, 2011, at a sixty percent (60%) diversion level as determined by the Director.
- B. For building permit applications filed between January 1, 2012 and December 31, 2012, at a sixty-five percent (65%) diversion level as determined by the Director.
- C. For building permit applications filed on or after January 1, 2013, at a seventy-five percent (75%) diversion level as determined by the Director.

SECTION 87. Section 9.10.3015 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.3015 Mandatory Solid Waste Requirements

~~The Notwithstanding any other provision of this Chapter, the~~ Director, or the Director's designee, may require the ~~owner~~Owner of a residential or ~~C~~commercial ~~P~~Premises or the ~~g~~Generator of ~~solid waste~~Solid Waste at such ~~P~~Premises to subscribe to and pay for ~~solid waste~~Solid Waste collection services in such configuration as the Director determines is necessary for the preservation of the public health and/or public safety. Such requirements may include, but are not limited to, requiring ~~solid waste~~Solid Waste containers in such sizes and numbers as needed to store all the ~~solid waste~~Solid Waste generated at the ~~P~~Premises during the periods between collections, requiring the ~~owner~~Owner or ~~G~~generator to change the frequency of ~~solid waste~~Solid Waste collections at the ~~P~~Premises, and requiring a change from residential to commercial collection service or from commercial to residential collection service.

SECTION 88. Section 9.10.3020 of Chapter 9.10 of Title 9 of the San José Municipal Code is amended to read as follows:

9.10.3020 Emergencies and Waivers

A. During any period of time for which the President of the United States, the Governor of the state of California or the Mayor of the City of San José has declared a state of emergency exists in the City of San José or any part thereof, the Director, in consultation with the Health Officer, may suspend any ~~solid waste~~Solid Waste ~~h~~Handling requirements of this Chapter and may promulgate such alternative ~~solid waste~~Solid Waste ~~H~~Handling requirements as the Director deems necessary for the protection and preservation of the health, safety and general welfare of the people of the City of San José.

- B. The Director, in their sole discretion and in accordance with applicable law, may offer waivers, such as waivers permissible by 14 CCR Section 18984.11 or otherwise described in this Chapter, or other exemptions that may be granted to Generators on the basis of demonstrated extenuating circumstances for some of the requirements of this Chapter. Qualified and interested persons may apply for or be granted such waivers, in accordance with the administrative processes prescribed by the Director or their designee, and shall pay all relevant administrative fee(s), if enacted, in the amount specified in the schedule of fees adopted by resolution of the City Council for the City's administration of the waiver process.
- C. In determining whether to grant the waiver or exemption, the Director shall evaluate all relevant factors including, but not limited to: type of Generator; physical space constraints; volume of discarded materials generated; collection frequency needs; occupancy or development of the Premises; demonstrated extenuating circumstances by the applicant; and other factors related to exemptions that may be available under applicable law, as amended. The Director may, in their sole discretion, add or remove factors considered in the criteria for waivers and exemptions granted under this Section.
- D. Any person granted a waiver by the City shall follow all terms and conditions incorporated as part of the waiver, or otherwise prescribed by the Director or their designee, regardless of whether or not those terms have been specified in this Chapter or other sections of the City's municipal code. The City reserves the right to conduct inspections to verify compliance with the conditions of any waiver or exemption, or application therefore, both prior to granting of such waiver or exemption, and at subsequent times thereafter as determined appropriate by the Director.

SECTION 89. A new part is added to Chapter 9.10 of Title 9 of the San José Municipal Code, to be numbered, entitled and to read as follows:

Part 18

EDIBLE FOOD RECOVERY

9.10.3200 Findings and Purpose

- A. Pursuant to SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, CalRecycle developed regulations to reduce organics in landfills as a source of methane. The regulations place new requirements on cities, counties, residential households, businesses, waste haulers, and Food Recovery Organizations to support achievement of statewide Organic Material disposal reduction targets.
- B. CalRecycle’s regulations direct cities and counties to develop Edible Food Recovery programs and require that certain businesses to arrange for the donation of Edible Food that would otherwise go to waste. In addition to targeting methane emissions, these new programs and requirements will help reduce food insecurity in California.
- C. Pursuant to 14 CCR Section 18981.2, jurisdictions may delegate certain responsibilities for implementing, monitoring, and enforcing their Edible Food Recovery programs to public or private entities.
- D. The City Manager is authorized to enter into an agreement on behalf of the City with another entity, as permitted under 14 CCR Section 18981.2, for the inspection and enforcement of this Part.

9.10.3210 Definitions

The definitions set forth in this Section shall govern the application and interpretation of this Part.

- A. “Department” means any department of the City or department of the entity designated by the City to enforce or administer this Part, as authorized in 14 CCR Section 18981.2.
- B. “Designee” means any private entity that the City or City designated agency contracts with or otherwise arranges to carry out any responsibilities of this Part, as authorized in 14 CCR Section 18981.2.
- C. “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Part, “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this Part requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- D. “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).
- E. “Food Facility” has the same meaning as in Section 113789 of the Health and Safety Code.
- F. “Food Recovery” means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

G. “Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities. “Food Recovery Organization” includes, but is not limited to:

1. A food bank as defined in Section 113783 of the Health and Safety Code;
2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and
3. A nonprofit charitable temporary Food Facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this Part pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Part.

H. “Food Recovery Service” means a person or entity that collects and transports Edible Food from a commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator.

I. “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).

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

K. "Health Facility" has the same meaning as in Section 1250 of the Health and Safety Code.

L. "Hotel" has the same meaning as in Section 17210 of the Business and Professions Code.

M. "Inspection" means a Department or Designee's electronic or onsite review of reviews records, containers, and an entity's collection, Handling, Recycling, or landfill disposal of Organic Material or Edible Food Handling to determine if the entity is complying with requirements set forth in this Part, or as otherwise defined in 14 CCR Section 18982(a)(35).

N. "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 two thousand (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 Part.

- O. “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. A venue facility includes, but is not limited to, a public, non-profit, 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. 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 Part.
- P. “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- Q. “Non-Local Entity” means an entity that is an Organic Material Generator but is not subject to the control of a jurisdiction’s regulations related to Solid Waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, and state agencies.
- R. “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-Premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

S. “Share Table” has the same meaning as in Section 114079 of the Health and Safety Code.

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

U. “Tier One Commercial Edible Food Generator” means the following:

1. Supermarkets.
2. Grocery Stores with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Providers.
4. Food Distributors.
5. Wholesale Food Vendors.

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 Part.

For the purposes of this Part, Food Recovery Organizations and Food Recovery Services are not commercial Edible Food Generators.

V. “Tier Two Commercial Edible Food Generator” means the following:

1. Restaurants with two hundred fifty (250) or more seats or a total facility size equal to or greater than five thousand (5,000) square feet.
2. Hotels with an on-site Food Facility and two hundred (200) or more rooms.
3. Health Facilities with an on-site Food Facility and one hundred (100) or more beds.
4. Large Venues.
5. Large Events.

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 Part. Non-Local Entities that operate a facility that meets this definition are Tier Two Commercial Edible Food Generators.

For the purposes of this Part, Food Recovery Organizations and Food Recovery Services are not commercial Edible Food Generators.

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

9.10.3220 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. Tier One and Tier Two Commercial Edible Food Generators shall comply with the following requirements:
1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 2. Contract with, or enter into a written agreement with, Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food Recovery; or (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

4. Allow the Department or Designee to access the Premises, conduct Inspections, and review electronic and hard copy 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. Tier One Commercial Edible Food Generators shall submit Food Recovery reports, as defined below, to the Department or Designee according to the following schedule:

1. On or before August 1, 2022, Tier One Commercial Edible Food Generators shall submit a Food Recovery report for the period of January 1, 2022 through June 30, 2022.
2. On or before May 1, 2023, and on or before May 1st each year thereafter, Tier One Commercial Edible Food Generators shall submit a Food Recovery report for the period covering the entire previous calendar year.

E. Tier Two Commercial Edible Food Generators shall submit Food Recovery reports, as defined below, to the Department or Designee according to the following schedule:

1. On or before May 1, 2025, and on or before May 1st each year thereafter, Tier Two Commercial Edible Food Generators shall submit a Food Recovery report for the period covering the entire previous calendar year.

F. Food Recovery Reports submitted by Tier One and Tier Two Commercial Edible Food Generators shall include the following information:

1. The name and address of the Commercial Edible Food Generator;
2. The name of the person responsible for the Commercial Edible Food Generator's Edible Food Recovery program;

3. A list of all contracted Food Recovery Services or Food Recovery Organizations that collect Edible Food from the Commercial Edible Food Generator; and

4. The total number of pounds of Edible Food, per year, donated through a contracted Food Recovery Organization or Food Recovery Service.

G. Nothing in this Part 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).

9.10.3230 Requirements for Food Recovery Organizations and Services

A. Food Recovery Services collecting, receiving, or coordinating the collection of Edible Food directly from Tier One or Tier Two 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, receiving, or coordinating the collection of Edible Food directly from Tier One or Tier Two Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

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

2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.

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

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Tier One or Tier Two Commercial Edible Food

Generators pursuant to 14 CCR Section 18991.3(b) shall submit Food Recovery Reports, as defined below, to the Department or Designee according to the following schedule:

1. On or before August 1, 2022, Food Recovery Organizations and Food Recovery Services shall submit a Food Recovery Report for the period of January 1, 2022 through June 30, 2022; and
2. On or before May 1, 2023, and on or before May 1st each year thereafter, Food Recovery Organizations and Food Recovery Services shall submit a Food Recovery Report for the period covering the entire previous calendar year.

D. Food Recovery reports submitted by Food Recovery Services or Organizations shall include the following information:

1. Total pounds of Edible Food recovered in the previous calendar year from Tier One and Tier Two Edible Food Generators with whom the reporting entity has a contract or written agreement pursuant to 14 CCR Section 18991.3(b).
2. Total pounds of Edible Food recovered in the previous calendar year from Tier One and Tier Two Edible Food Generators within Santa Clara County with whom the reporting entity has a contract or written agreement 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 County of Santa Clara, the City, or Designee(s), Food Recovery Services and Food Recovery Organizations operating in the City

shall provide information and consultation to the City, Designee, or Department, 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 Department or its Designee shall respond to such request for information within sixty (60) days, unless a shorter timeframe is otherwise specified by the Department or Designee.

9.10.3240 Edible Food Recovery Inspections and Investigations by Department or Designee

A. The Department and/or Designee 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 to confirm compliance with this Part by Tier One and Tier Two Commercial Edible Food Generators, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the Department or Designee to enter the interior of a private residential property for Inspection.

B. Regulated entities shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the Department's or Designee's employees during such Inspections and investigations. Such Inspections and investigations may include in-person or electronic review of Edible Food Recovery activities, records, or any other requirement of this Part described herein. Failure to provide or arrange for access to an entity's Premises or access to records for any Inspection or investigation is a violation of this Part and may result in penalties described.

- C. Any records obtained by the Department or Designee during its Inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- D. Representatives of the Department and/or Designee are authorized to conduct any Inspections, or other investigations as reasonably necessary to further the goals of this Part, subject to applicable laws.
- E. City will provide a procedure for the submission of written complaints, including anonymous complaints, regarding entities that may be in violation of this Part. Complaints shall include the name and contact information of the complainant, if the complainant is not anonymous; the identity of the alleged violator, if known; a description of the alleged violation including location(s) and all other relevant facts known to the complainant; any relevant photographic or documentary evidence to support the allegations in the complaint; and the identity of any witnesses, if known.

9.10.3250 Enforcement

- A. Enforcement of this Part may be undertaken by the City or an entity designated by the City.
- B. Administrative Fine. Violation of any provision of this Part shall constitute grounds for issuance of a Notice of Violation and assessment of an administrative fine by the Department. Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the Department shall commence an action to impose penalties through an administrative citation and fine.

C. Notice of Violation. Before assessing an administrative citation and fine, the Department shall issue a Notice of Violation requiring compliance within sixty (60) days of issuance of the Notice. The Notice shall include: (1) the name(s) of each person or entity to whom it is directed, (2) a factual description of the violations, including the regulatory section(s) being violated, (3) a compliance date by which the respondent is to take specified action(s), and (4) the penalty for not complying before the specified deadline. For repeat and/or willful violations, the Department may require compliance within fewer than sixty (60) days or may immediately issue an administrative citation and fine.

D. Extensions to Compliance Deadlines. The Department may extend the compliance deadlines set forth in a Notice of Violation 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;
3. Deficiencies in Edible Food Recovery capacity and the existence of a corrective action plan imposed by CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies; or
4. Any other circumstance in which the Director, in their sole discretion, finds good cause to extend the compliance deadlines.

E. Administrative Citations. If the respondent fails to correct the violation by the compliance date or as otherwise provided in subsection B. above, the Department shall issue an administrative citation and fine.

1. If the administrative citation was issued by the City, it shall be issued in accordance with Chapter 1.15.

2. If the administrative citation was issued by an agency designated by the City, it shall be issued in accordance with the agency's regulations and procedures for issuing such citations and fines.

F. Amount of Fine. At the discretion of the Director of the Department,

Administrative fines for each violation of this Part shall~~may~~ automatically accrue each day that the cited violation persists, including during the correction period (if any) specified in the Notice of Violation. If the respondent corrects the violation on or before the specified compliance date, they shall not be liable for any accrued fines for that violation. The Notice of Violation shall specify whether administrative fines will accrue daily. The amount of the administrative fine for each violation of this Part shall be as follows:

1. For a first violation, the amount of the base penalty shall be fifty dollars (\$50) to one hundred dollars (\$100) per violation and, if applicable, per day.

2. For a second violation, the amount of the base penalty shall be one hundred dollars (\$100) to two hundred dollars (\$200) per violation and, if applicable, per day.

3. For a third or subsequent violation, the amount of the base penalty shall be two hundred fifty dollars (\$250) to five hundred dollars (\$500) per violation and, if applicable, per day.

G. Factors Considered in Determining Penalty Amount. The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

1. The nature, circumstances, and severity of the violation(s).

2. The violator's ability to pay.

3. The willfulness of the violator's misconduct.

4. Whether the violator took measures to avoid or mitigate violations of this Part.

5. Evidence of any economic benefit resulting from the violation(s).

6. The deterrent effect of the penalty on the violator.

7. Whether the violation(s) were due to conditions outside the control of the violator.

H. Appeals. Persons receiving an administrative citation for an uncorrected violation may request a hearing to appeal the citation.

1. If the citation was issued by the City, the appeal shall be conducted in accordance with the appeal process in Chapter 1.15.

2. If the citation was issued by an agency, the appeal shall be conducted in accordance with the citing agency's regulations and procedures.

I. Other remedies. Other remedies allowed by law may be used to enforce this Part, including civil action or prosecution as misdemeanor or infraction. The Department and/or City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The Department and/or 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 Department staff and resources.

PASSED FOR PUBLICATION of title this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk