



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Kerrie Romanow

**SUBJECT:** SEE BELOW

**DATE:** October 18, 2021

Approved

Date

10/22/21

**SUBJECT: ORDINANCE AMENDING CHAPTER 9.10 OF TITLE 9 OF THE SAN JOSE MUNICIPAL CODE (SOLID WASTE MANAGEMENT) AND AMENDMENT TO THE ADMINISTRATIVE CITATION SCHEDULE OF FINES RESOLUTION**

## **RECOMMENDATION**

- (a) Approve an ordinance amending Chapter 9.10 of Title 9 of the San José Municipal Code to implement the requirements of SB 1383, California's Short-Lived Climate Pollutant Reduction Strategy Regulations, and to more efficiently implement residential, commercial, and enforcement of solid waste programs.
- (b) Adopt a resolution amending the Administrative Citation Schedule of Fines to reduce fines for the placement of solid waste containers outside of side or rear yard and add fines for SB 1383 enforcement as required by law.

## **OUTCOME**

Approval of these recommendations implements the regulatory requirements of SB 1383 and allows the City to more effectively manage solid waste programs and elaborate on existing Municipal Code language to improve current programs.

## **BACKGROUND**

Chapter 9.10 of the San José Municipal Code (SJMC) allows the Environmental Services Department to implement solid waste collection programs to protect public health for residents and businesses. These programs include residential (Single Family Dwelling and Multi-Family Dwelling) and commercial solid waste collection and processing, construction and demolition debris, and solid waste enforcement. Revisions to several sections of Chapter 9.10 of the SJMC

allows the City to provide better solid waste services to the community and to comply with current state regulations as required under SB 1383.

### ***SB 1383***

In September 2016, the State Legislature passed SB 1383 to set methane emissions reduction targets for California (SB 1383 Lara, Chapter 395, Statutes of 2016) in a statewide effort to reduce emissions of short-lived climate pollutants. The targets must:

- Reduce organic waste disposal 50% by 2020 and 75% by 2025
- Rescue for people to eat at least 20% of currently disposed surplus food by 2025

SB 1383 is the most significant waste reduction mandate to be adopted in California in the last 30 years. There are many benefits associated with the implementation of SB 1383.

Environmental benefits include fighting climate change, improving air quality, donating edible food to those in need, and sending fewer tons of waste to landfills. SB 1383 will provide millions of meals to Californians who do not have enough to eat by diverting edible food away from the landfills. Most importantly SB 1383 aligns with Climate Smart San José by reducing greenhouse gas emissions and it helps the City achieve its zero waste goals through waste diversion and supporting local recycling markets.

### ***Other Program Improvements***

In administering solid waste programs, City staff responds to certain service issues repeatedly, when program improvements could be more easily addressed through amending the SJMC to address these recurring issues. Areas of program improvement that will be better addressed through SJMC changes include improper solid waste set-out, inadequate solid waste service, storage of solid waste containers, and solid waste guidelines for planned development. For example, inadequate solid waste service at businesses causes contamination of recyclables and organics, and overflowing containers. Currently, planned developments are provided guidelines for solid waste management; the code amendments will ensure definitive requirements are set for solid waste enclosures and rooms. The proposed SJMC changes will more effectively address these issues and ensure compliance with SB1383 requirements.

### **ANALYSIS**

SJMC Title 9, Chapter 9.10 regulates the commercial and residential solid waste systems, which includes the collection of garbage, rubbish, and recyclable material. Staff recommends adoption of proposed SJMC changes and additions to ensure that our City ordinances align with current and upcoming regulations, events, and program improvements.

The following improvements are reflected in the Municipal Code:

<b>IWM Area impacted</b>	<b>Subject</b>	<b>Muni Code update</b>
General	SB1383 requirements	<p>Add or revise new requirements and provisions to the SJMC solid waste section</p> <p>Add and revise definitions to align with SB 1383, industry standard, and to match the updates and changes made throughout the SJMC</p> <p>Add a new Part 18 for SB 1383 edible food recovery provisions that would also permit the City to partner with other agencies to administer the edible food recovery provisions required by SB 1383. The edible food recovery provisions were developed in conjunction with the County and other local jurisdictions</p> <p>Add a new provision regarding the potential use of waivers that may be granted to generators based on demonstrated extenuating circumstances for some of the SB 1383 requirements</p> <p>Add enforcement provisions and associated fines</p>
General	No definitions of Residential care facility and medical waste	Add definitions
General	Definition of Transformation	Add anaerobic digestion
Single Family Dwelling	Yard wastes tarps	Remove “yard wastes tarps” references from different sections of Code to reflect current procedures for collecting yard waste, as tarped yard waste cannot be collected by truck or claw tractor because it poses a hazard to collection equipment.
Single Family Dwelling	Fines for improper storage of solid waste containers	The fine for improper storage is \$500 (Schedule of fines, 9.10.410) and it should match the structure of the fine for unauthorized placement of solid waste or solid waste containers (Schedule of fines, 9.10.1100) \$25 (first offense) \$50 (second offense) \$100 (third offense) for Single Family Dwelling carts. Moving the improper storage of carts language into 9.10.1100 aligns the fine amounts, which would create a more equitable tool to address the situation and allows the use of both outreach and penalties as needed.

Commercial	Minimum Service levels	Establish a mandatory minimum service level for organic and recyclable waste collection to comply with SB1383 and reduce contamination.
Commercial & Multi-Family Dwelling	Solid waste enclosures and rooms plan check requirements	<p>Add a provision to allow staff to decide if a garbage enclosure, with an enclosed and ventilated space with drain and wash systems adequate to accommodate anticipated waste, is required.</p> <p>Add a provision for solid waste to be stored inside of the building envelope in a solid waste room when solid waste is not set out for collection by an authorized solid waste collector.</p> <p>Add a provision that requires new developments to accommodate garbage and recycling collection vehicles an easy path of travel including width, turning radius, and overhead clearances.</p> <p>Add a provision that requires developments have a room volume requirement for a solid waste enclosure</p>

**CONCLUSION**

Staff recommends that City Council approve the proposed amendments to Chapter 9.10 of the SJMC to more easily and effectively manage the City’s solid waste programs as well as comply with SB 1383. Approval of proposed SJMC changes will also provide solid waste inspectors with more resources to provide outreach and appropriately assess administrative citations. Approval of the proposed amendments will ensure that the City is in compliance with SB 1383 regulations, which become effective January 1, 2022.

**EVALUATION AND FOLLOW-UP**

As these requirements are implemented in 2022, further amendments may be needed. Therefore, staff may return to Council to make further amendments as lessons are learned from the implementation of these requirements.

HONORABLE MAYOR AND CITY COUNCIL

October 12, 2021

**Subject: Ordinance amending Chapter 9.10 of Title 9 of the San Jose Municipal Code (Solid Waste Management) and Amendment to Administrative Citation Schedule of Fines Resolution**

Page 5

## **CLIMATE SMART SAN JOSE**

The recommendations in this memorandum align with one or more Climate Smart San José energy, water, or mobility goals.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the November 2, 2021 City Council agenda.

## **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Department of Planning, Building and Code Enforcement.

## **COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

## **COST SUMMARY/IMPLICATIONS**

Changes to the schedule of fines could result in a minor increase in the number of administrative citations issued (an increase of less than ten citations annually) and revenue collected. The fines for 9.10.1100, (Placement of solid waste), range from \$25-\$100 and are deposited in the Integrated Waste Management Fund to support garbage and recycling programs.

Solid Waste Enforcement and Compliance staff were added in the 2021-2022 Adopted Operating Budget for program development through June 30, 2023. Permanent program staff would be proposed as part of a future budget process, should it be necessary. No additional costs are anticipated that would impact ratepayers for 2021-2022. Cost increases to residential and commercial customers for SB 1383 compliance may be necessary in future years as programs are expanded and implemented and additional costs are identified. In addition to rate payer funds, Environmental Services staff will look for outside sources of funding including grants to mitigate future program costs.

HONORABLE MAYOR AND CITY COUNCIL

October 12, 2021

**Subject: Ordinance amending Chapter 9.10 of Title 9 of the San Jose Municipal Code (Solid Waste Management) and Amendment to Administrative Citation Schedule of Fines Resolution**

Page 6

**CEQA**

Not a project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

/s/

KERRIE ROMANOW

Director, Environmental Services Department

For questions, please contact Valerie Osmond, Deputy Director, Environmental Services Department at (408) 535-8557.