STATE OF CALIFORNIA
COUNTY OF SANTA CLARA
CITY OF SAN JOSÉ)

I, Toni J. Taber, Acting City Clerk & Ex-Officio Clerk of the Council of and for the City of San José, in said County of Santa Clara, and State of California, do hereby certify that Ordinance No. 29265, the original copy of which is attached hereto, was passed for publication of title on the 4th day of June 2013, was published in accordance with the provisions of the Charter of the City of San José, and was given final reading and adopted on the 18th day of June 2013 by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA, KHAMIS, NGUYEN, OLIVERIO, ROCHA; REED.

NOES: NONE.

ABSENT: LICCARDO.

ABSTAINED: NONE.

VACANT: NONE.

Said ordinance is effective as of July 19, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San José, this 21st day of June 2013.

(SEAL)

TONI J. TABER, CMC
ACTING CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/smd
ORDINANCE NO. 29265

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE (THE ZONING ORDINANCE) TO AMEND SECTIONS 20.80.1110, 20.80.1130, AND 20.80.1150 OF CHAPTER 20.80 (SPECIFIC USE REGULATIONS, RECYCLING FACILITIES) TO MODIFY REGULATIONS FOR REVERSE VENDING MACHINES AND UNATTENDED COLLECTION CONTAINERS IN SMALL COLLECTION FACILITIES, TO AMEND SECTIONS 20.100.1240 AND 20.100.1250 OF CHAPTER 20.100 (ADMINISTRATION AND PERMITS) TO MODIFY REQUIREMENTS FOR DISPLAY AND TERMS OF ADMINISTRATIVE PERMITS, TO ADD SECTION 20.80.1115 TO CHAPTER 20.80 TO ESTABLISH A MAXIMUM NUMBER OF ALLOWABLE ADMINISTRATIVE PERMITS FOR UNATTENDED COLLECTION CONTAINERS CITY-WIDE, AND TO ADD SECTIONS 20.200.877 AND 20.200.1303 TO CHAPTER 20.200 (DEFINITIONS) TO ADD DEFINITIONS FOR "PERMITTEE" AND "UNATTENDED COLLECTION CONTAINER"; AND ESTABLISHING A RETROACTIVE EFFECTIVE DATE OF MAY 7, 2013 FOR THE APPLICABILITY OF SECTION 20.80.1115; ALL TO FURTHER IMPLEMENT THE MEASURABLE SUSTAINABILITY/ENVIRONMENTAL STEWARDSHIP MAJOR STRATEGY, THE MEASURABLE ENVIRONMENTAL SUSTAINABILITY GOALS AND POLICIES, AND THE LAND USE GOALS AND POLICIES SET FORTH WITHIN THE ENVISION SAN JOSE 2040 GENERAL PLAN AND TO MAKE OTHER TECHNICAL, FORMATTING OR OTHER NONSUBSTANTIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20

WHEREAS, the environmental impacts of this ordinance have been examined and disclosed pursuant to the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and regulations, under that certain Final Program Environmental Impact Report prepared for the Envision San José 2040 General Plan and related City Council Resolution No. 76041, adopted by the City Council on November 1, 2011.

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

SECTION 1. Section 20.80.1110 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

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20.80.1110  Permits for Multiple Reverse Vending Machines or Multiple Small Collection Facilities on Multiple Sites

A single Administrative Permit may be granted to allow more than one (1) Reverse Vending Machine or more than one (1) small collection facility, even if located on different Sites, but only if all of the following criteria and conditions are fully met:

A. The operator of each of the proposed machines and/or facilities is the same;

B. The real property owner of each of the proposed Sites is the same;

C. All of the applicable criteria and standards set forth in this Part are met for each such proposed machine and/or facility; and

D. The proposed machines and/or facilities are determined by the Director to be similar in nature, size, and intensity of activity.

SECTION 2. Chapter 20.80 of Title 20 of the San José Municipal Code is amended to add a new section to be numbered, entitled and to read as follows:

20.80.1115  Maximum Number of Administrative Permits for Unattended Collection Containers

At any given time, the maximum number of valid and unexpired Administrative Permits issued for Unattended Collection Containers shall not exceed eighteen (18).

SECTION 3. Section 20.80.1130 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.1130  Criteria and Standards

A. Each owner of a Site on which a Recycling Facility is to be located and each operator of the Recycling Facility shall first obtain an Administrative Permit to allow that Recycling Facility to be located and operate on the Site. Each owner of a site on which a Recycling Facility is allowed to be located with an Administrative Permit and each operator of the permitted Recycling Facility shall thereafter be required to ensure that the Recycling Facility meets all of the applicable criteria and standards listed below. Those Recycling Facilities permitted with a Site Development Permit, Special Use Permit, or Conditional Use Permit shall meet the applicable criteria and standards listed below, provided that the Director, Planning Commission, or City Council, as the case may be, may relax such standards or impose stricter standards as set forth in that permit as an
exercise of discretion, upon a finding that such modifications are accordingly necessary in order to implement the general intent of this Part and the purposes of this Title at a particular Site. The criteria and standards for Recycling Facilities are as follows:

B. Reverse Vending Machines.

1. Shall be established only in conjunction with a Fixed-base Host business which is in compliance with all applicable provisions of the San José Municipal Code, including without limitation the Zoning, Building and Fire Codes of the City of San José;

2. Shall be located within fifteen (15) feet of a primary building entrance of the Fixed-base Host business and shall not obstruct pedestrian or vehicular circulation;

3. Shall be constructed and maintained with durable waterproof and rustproof material and shall be covered;

4. Shall be clearly marked to identify the type of material to be deposited;

5. Shall be allowed a maximum of four (4) square feet of sign area, and all sign(s) shall be attached to the respective machine or facility;

6. Shall, in the aggregate, number no more than three (3) machines and/or facilities per Fixed-base Host business;

7. Shall be no more than fifty (50) cubic feet in bulk and no more than eight (8) feet in height.

8. Reverse Vending Machines located Indoors do not require any permits under this Title.

C. Small Collection Facilities

1. A Small Collection Facility shall be established only in conjunction with a Fixed-base Host business in compliance with all applicable provisions of the San José Municipal Code, including without limitation the Zoning, Building and Fire Codes of the City of San José;

2. A Small Collection Facility shall be operated and maintained as a facility for the deposit or drop-off of Recyclable Material;
3. All containers of a Small Collection Facility shall be constructed and maintained with durable, vector-resistant, watertight, waterproof and rustproof material and shall be covered;

4. The recycling containers of a Small Collection Facility shall be kept clean and sanitary and shall be maintained in a manner that repels and keeps away flies, vermin, birds and rodents;

5. The recycling containers of a Small Collection Facility shall be maintained free of graffiti, and any graffiti shall be removed from such recycling containers on at least a daily basis;

6. All containers of the Small Collection Facility shall be clearly marked to identify the type of recyclable or recyclables which may be deposited;

7. The Small Collection Facility shall be clearly marked to identify the name and telephone number of the operator of the Small Collection Facility and the owner of the site on which the Small Collection Facility is located;

8. The site on which the Small Collection Facility is located shall be swept and maintained in a dust-free, litter-free condition on at least a daily basis;

9. The Small Collection Facility shall be placed and maintained on a site in compliance with the Americans with Disabilities Act and shall not obstruct on-site or off-site pedestrian or vehicular circulation;

10. The Small Collection Facility shall be set back at least ten (10) feet from the nearest edge of any Street right of way;

11. The Small Collection Facility shall not impair the landscaping required for any concurrent use of the Site by this Title or any permit issued pursuant thereto;

12. The noise level created by the operation of the Small Collection Facility shall not at any time exceed 55 dBA as measured at the property line of residentially zoned or occupied property and shall not exceed 70 dBA as measured at all other adjacent property lines of the site;

13. The Small Collection Facility shall not include power-driven sorting and/or consolidation equipment, such as crushers or balers; bulk Reverse Vending Machines may be permitted;
14. Signs may be provided on a Small Collection Facility as follows:
   a. An Unattended Collection Container not over fifty (50) cubic feet in bulk and not over eight (8) feet in height may have a maximum sign area of four (4) square feet; and
   b. Other containers or units may have one (1) flat-mounted sign per side of container or wall of enclosure of twenty (20) percent of the surface of the side or six (6) square feet, whichever is greater;

15. The minimum average illumination of the portion of the Site on which the Small Collection Facility is located shall be 1/2 foot-candle;

16. Use of the Small Collection Facility for collection of solid waste or hazardous material, as defined in Sections 9.10.280 and 9.10.150 of Title 9 of this Code, is prohibited;

17. The Small Collection Facility shall be removed from site on the day following permit expiration;

18. Attended Small Collection facilities shall be in operation only during those hours that the Fixed-base Host business is in operation;

19. The Small Collection Facility shall conform to all development regulations for the zoning district in which it is located; for an attended Small Collection Facility, a minimum of one (1) parking space per attendant shall be provided;

20. The Small Collection Facility shall be located in such a manner that any required parking for the Fixed-base Host business is not displaced; and

21. The Permittee shall be responsible for the proper disposal of any hazardous material or other solid waste that is placed in the container or otherwise dropped off at the Permittee's Small Collection Facility.

22. Unattended Collection Containers shall not be located within any applicable minimum setback areas required by this Code and shall be setback at least ten (10) feet from any property line that abuts a public park or a public trail.
23. The front of each Unattended Collection Container shall conspicuously display all of the following:

a. The name, address, telephone number, and, if available, the Internet Web address of the owner and operator of the Unattended Collection Container.

b. A statement, in at least two (2)-inch typeface, that discloses whether the owner and/or operator of the Unattended Collection Container is a non-profit or for-profit organization. If the owner and operator is a for-profit organization, the statement shall read, "This collection box is owned and operated by a for-profit organization". If the owner and operator is a non-profit organization, the statement shall read, "This collection box is owned and operated by a nonprofit organization." If the owner and operator are different entities, one a non-profit organization and the other a for-profit organization, the statement shall identify the non-profit or for-profit status of both the owner and the operator. For purposes of this Section, a "non-profit organization" means an organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code. Further, for purposes of this Section, a commercial fundraiser as defined in California Government Code Section 12599, as it may be amended, shall be classified as a for-profit organization.

c. Any other statements or disclosures required under applicable State or Federal law including, but not limited to, California Welfare and Institutions Code Section 151, as it may be amended.

D. Transfer Facilities.

1. Operations shall take place within a fully enclosed building or:

a. Within an area enclosed by a solid wood or masonry fence at least six (6) feet in height; and

b. At least one hundred fifty (150) feet from property planned, zoned or occupied for residential use;

2. Setbacks from property lines shall be those provided for in the zoning district in which the facility is located, but if such setback is less than twenty-five (25) feet, then the Transfer Facility shall be buffered by a landscape strip at least ten (10) feet wide along each property line;
3. If the Transfer Facility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between the hours of 7:00 P.M. and 7:00 A.M.;

4. Noise levels from Transfer Facility operations shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA as measured at all other adjacent property lines of the Site;

5. Sign criteria shall be those provided for the zoning district in which the Transfer Facility is located.

E. Processing Facilities.

1. Operations shall take place within a fully enclosed building or:
   a. Within an area enclosed by a solid wood or masonry fence at least six (6) feet in height; and
   b. At least one hundred fifty (150) feet from property planned, zoned or occupied for residential use;

2. Setbacks from property lines shall be those provided for in the zoning district in which the Processing Facility is located, but if such setback is less than twenty-five (25) feet, then the Processing Facility shall be buffered by a landscape strip at least ten (10) feet wide along each property line;

3. If the Processing Facility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between the hours of 7:00 P.M. and 7:00 A.M.;

4. Noise levels from Processing Facility operations shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed seventy (70) dBA as measured at all other adjacent property lines of the Site;

5. Sign criteria shall be those provided for the zoning district in which the Processing Facility is located.

F. Composting Facilities.

1. Setbacks of all outdoor uses including, but not limited to, compost heaps and structures, shall be those provided for in the zoning
district in which the composting facility is located, but shall not be less than twenty-five (25) feet;

2. A landscape strip of at least fifteen (15) feet in width shall be provided along all property lines;

3. Noise levels of composting facility operations shall not exceed fifty-five (55) dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed seventy (70) dBA as measured at all other adjacent property lines of the Site;

4. Sign criteria shall be those provided for in the zoning district in which the composting facility is located;

5. Sufficient water shall be available on site to put out any fire which may occur;

6. The stockpiling of composted material, and the composting and processing of such material, shall be accomplished in a manner which will protect the health and safety of all composting facility employees.

7. Composting facilities where mixed waste is composted shall be enclosed by a solid wood or masonry fence. Sufficient slope shall be provided to allow the drainage of all water; and

8. All composting facilities shall be maintained in a manner that repels and keeps away flies, vermin, birds and rodents (i.e., free of pests) and shall not constitute a nuisance in terms of odor or dust.

SECTION 4. Section 20.80.1150 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.1150 Site Clean-up Required

The owner or operator of any Recycling Facility, Small Collection Facility, Transfer Facility, or Processing Facility shall cause or ensure that, on at least a daily basis, any and all recyclable materials or refuse that have accumulated or are deposited outside the container, bins, or enclosures intended as receptacles for such materials are removed from the respective Facility's location. Upon the failure to remove said materials from areas on the Site that are visible to or open to the general public, the City may revoke any approvals issued by the City for the respective Recycling Facility, Collection Facility, Transfer Facility, or Processing Facility in the manner specified in this Code for such revocation.
SECTION 5. Section 20.100.1240 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1240 Display of Permit

A. A copy of the permit issued hereunder shall be conspicuously posted on a window, door, or other appropriate location of the business premises in a manner visible to the public at all times. The permit shall notify the public that any complaints with regard to the use authorized by such permit may be reported to the Director.

B. Notwithstanding Subsection A above, a permit for a Utility Structure does not need to be displayed. However, the permit number, or other mutually agreeable identification system, shall be permanently displayed on a readily visible location on the structure.

C. Notwithstanding Subsection A above, a copy of the permit issued for an Unattended Collection Container shall be conspicuously displayed in a publicly visible location on the Unattended Collection Container.

SECTION 6. Section 20.100.1250 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1250 Term

A. A permit issued pursuant to this Part shall be initially issued for a period of up to three (3) years except that a permit for an Unattended Collection Container shall be initially issued for a period of up to one (1) year. Whenever a permit is reissued, it may be granted for a period of up to five (5) years except that a permit reissued for an Unattended Collection Container shall be issued for a period of up to one (1) year. The applicant shall submit an application for a new permit term at least fifteen (15) days prior to the expiration of the term of any permit issued hereunder.

B. Notwithstanding Subsection A above, a permit for a Utility Structure shall have no time limit.

SECTION 7. Chapter 20.200 of Title 20 of the San José Municipal Code is amended to add a new section, to be numbered, entitled and to read as follows:

20.200.877 Permittee
"Permittee" means the Person(s) as defined in Title 1 of the San José Municipal Code to whom a permit has been issued pursuant to the provisions of Title 20.

**SECTION 8.** Chapter 20.200 of Title 20 of the San José Municipal Code is amended to add a new section, to be numbered, entitled and to read as follows:

**20.200.1303 Unattended Collection Container**

"Unattended Collection Container" means a box or other container less than or equal to five hundred (500) square feet in area, less than or equal to twelve (12) feet in height, and not attended by a person during at least part of the time that it is accessible for use by the general public and that may be included in a Small Collection Facility.

**SECTION 9.** The effective date of Section 20.80.1115 of Chapter 20.80 of Title 20 of the San José Municipal Code is retroactive to May 7, 2013.

**PASSED FOR PUBLICATION** of title this 4th day of June, 2013, by the following vote:

**AYES:** CAMPOS, CHU, HERRERA, KALRA, LICCARDO, NGUYEN ROCHA; REED.

**NOES:** NONE.

**ABSENT:** CONSTANT, KHAMIS, OLIVERIO.

**DISQUALIFIED:** NONE.

CHUCK REED
Mayor

TONI J. TABER, CMC
Acting City Clerk