

ORDINANCE NO. 2954-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SECTION 8.16.180 OF CHAPTER 8.16 (SOLID WASTE MANAGEMENT AND RECYCLING) OF TITLE 8 (HEALTH AND SAFETY) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO IMPOUNDING REFUSE CONTAINERS AND REQUIREMENTS FOR TARPING OPEN BED TRUCKS

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 8.16 AMENDED. Chapter 8.16 (Solid Waste Management and Recycling) of Title 8 (Health and Sanitation) of the Sunnyvale Municipal Code is hereby amended to read as follows:

8.16.020. Definitions.

(j) "Receptacle" shall mean every type of container used in connection with collection and removal of solid waste and/or recycling materials, including compactors, bins and boxes, used in every zoning district of the city, which is not provided by the city or by a city licensed disposal service operator.

(j) – (p) [Re-number (k) – (q), consecutively; text unchanged.]

8.16.030. Solid waste container requirements.

(a) – (c) [Text unchanged.]

(d) All containers shall be clearly identified with the name and telephone number of the disposal service operator servicing it.

8.16.170. Collecting or hauling without franchise or license unlawful

(a) [Text unchanged.]

(b) It is unlawful for the occupant of a premises to engage the services of a person for collecting solid waste within the city unless such person has been granted a franchise or license to do so by the city.

8.16.180. Impounding of receptacles placed in violation of chapter.

(a) Any person who violates Section 8.16.170(a) shall be notified in writing that the prompt and permanent removal is required of any receptacle placed on the premises for collection by a person who is not a city licensed disposal service operator. Written notice shall be posted prominently upon the receptacle. If the receptacle is identified with the name and address or telephone number of the person operating it, notice shall be provided by mail or telephone. Failure to notify any person by phone or by mail shall not invalidate the notice.

(b) The notice shall inform the person who places or operates the receptacle that the city intends to impound any receptacle which is placed in violation of Section 8.16.170 within the time set forth in the notice, which shall not be less than 24 hours after posting of the notice, or not less than 6 hours after telephonic notification.

(c) The city may impose fees, costs, charges, and penalties in the amount set forth by city council resolution, unless, within ten city working days from the date of notice, the person who places or operates the receptacle has requested a hearing on removal and impoundment by filing a written request for a hearing with the department of public works, attention solid waste manager. A hearing on impoundment shall be scheduled within three city working days after request.

(d) Any person who violates this section shall be liable to the city for all penalties. That person or persons shall also be liable for any fees, costs and charges in connection with impounding, collection, transportation, storage and handling of such receptacle by the city, as well as cost recovery pursuant to the applicable Utility Fee Schedule in effect on the date of hearing. The receptacle impounded by the city shall be retrieved by the owner upon proof of ownership of the receptacle after all applicable fees, penalties, costs and charges have been paid. Fees, penalties, costs and charges shall not apply if any person prevails in any hearing adjudicating the matter. In all cases, a receptacle not retrieved after three months shall be deemed abandoned.

(e) Upon posting of a written notice of violation upon the unauthorized receptacle, no person using the unauthorized receptacle shall place solid waste and recyclable materials therein, or that person will be subject to fees, penalties, costs and charges in the amount set forth in city council resolution.

8.16.200. General penalties and Administrative penalties.

Failure to comply with the provisions of this chapter shall make the person violating its provisions subject to general penalties in accordance with Chapter 1.04 and also subject to administrative citations in accordance with Chapter 1.05 of this code.

SECTION 2. SECTION 8.16.190 AMENDED. Section 8.16.190 of Chapter 8.16 (Solid Waste Management and Recycling) of Title 8 (Health and Sanitation) of the Sunnyvale Municipal Code is hereby amended to read as follows:

8.16.190. Vehicles, conveyances and containers—Applicable regulations.

(a) All vehicles, conveyances or containers used for hauling solid waste within the city shall be of such construction as to comply fully with all laws, rules and regulations of the state of California pertaining thereto, and shall be of a type and construction to prevent leakage, spillage or overflow. This ordinance is intended to implement the requirements of Vehicle Code section 23114, or its successor statute.

(b) Any operator of an uncovered open bed truck hauling waste and recyclables for disposal at the SMaRT station shall be subject to payment of a fee for which the operator shall receive a tarp to be used for covering debris and solid waste. The fee for the truck tarp shall be established from time to time by resolution of the city council.

SECTION 3. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2011, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2011, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney