

DRAFT 2/1/17 MGT**ORDINANCE NO. 3110-17****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO REPEAL CHAPTER 9.54 (HUMAN HABITATION OF VEHICLES) OF TITLE 9 (PUBLIC HEALTH, SAFETY & WELFARE) AND AMEND SECTION 10.16.140 (PARKING FOR CERTAIN PURPOSES PROHIBITED) OF CHAPTER 10.16 (PARKING REGULATIONS) OF TITLE 10 (VEHICLES AND TRAFFIC) OF THE SUNNYVALE MUNICIPAL CODE**

WHEREAS, in June 2014, the U.S. Court of Appeals for the Ninth Circuit held that the Los Angeles vehicle habitation ordinance was unconstitutionally vague in violation of the First and Fourteenth Amendments (*Desertrain, et al. v. City of Los Angeles* (9th Cir. June 19, 2014) 754 F.3d 1147); and

WHEREAS, In 2004, in *Burkow v. City of Los Angeles* (2000) 119 F.Supp.2d 1076, a federal district court held that that a prohibition on parked cars, based exclusively on the display of a “for sale” sign, was unconstitutional because it was not narrowly tailored to the City’s interest; and

WHEREAS, the City of Sunnyvale desires to repeal and amend certain sections of the Sunnyvale Municipal Code related to provisions that have been held invalid by these cases.

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

**SECTION 1.** Chapter 9.54 REPEALED. Chapter 9.54 (Human Habitation of Vehicles) of Title 9 (Public Health, Safety & Welfare) of the Sunnyvale Municipal Code is hereby repealed in its entirety.

**SECTION 2.** Section 10.16.140 AMENDED. Section 10.16.140 (Parking for Certain Purposes Prohibited) of Chapter 10.16 (Parking Regulations of Title 10 (Vehicles and Traffic) is hereby amended to read as follows:

**10.16.140. Parking for certain purposes prohibited.**

It is unlawful for any person to park a vehicle upon any roadway for the purpose of washing, greasing or repairing such vehicle, except repairing necessitated by an emergency.

**SECTION 3.** CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, section 15378(b)(5), that this action is not a project that requires review under the California Environmental Quality Act (“CEQA”) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in 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, 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 passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases 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 once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice 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 January 31, 2017, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

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City Clerk  
Date of Attestation: \_\_\_\_\_

Mayor

(SEAL)

APPROVED AS TO FORM:

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City Attorney