

ORDINANCE NO. 3060-15

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE REPEALING AND REENACTING
CHAPTER 8.16 (SOLID WASTE MANAGEMENT AND
RECYCLING) OF TITLE 8 (HEALTH AND SANITATION)
OF THE SUNNYVALE MUNICIPAL CODE**

WHEREAS, the City of Sunnyvale desires to amend provisions of the Sunnyvale Municipal Code relating to solid waste management and recycling.

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

SECTION 1. CHAPTER 8.16 REPEALED AND REENACTED. Chapter 8.16 (Solid Waste Management and Recycling) of Title 8 (Health and Sanitation) of the Sunnyvale Municipal Code is hereby repealed and reenacted to read as follows:

CHAPTER 8.16
SOLID WASTE MANAGEMENT AND RECYCLING

- 8.16.010. Purpose.
- 8.16.020. Definitions.
- 8.16.030. Solid waste container requirements.
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- 8.16.050. Solid waste containers.
- 8.16.060. Solid waste—Deposit—Where prohibited.
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- 8.16.080. Recyclable waste oil.
- 8.16.090. Collection and disposal—Issuance of franchises or licenses.
- 8.16.100. Collection rates—Liability—Penalty for nonpayment.
- 8.16.110. Collection stations—Number and location.
- 8.16.120. Removal by disposal service operator—Interference unlawful.
- 8.16.130. Solid waste property of franchise holder or licensee.
- 8.16.140. Destroying, scattering or collecting recyclables without the consent of owner unlawful.
- 8.16.150. Collecting or hauling without franchise or license unlawful.
- 8.16.160. Exclusions.
- 8.16.170. Impounding of receptacles placed in violation of chapter.
- 8.16.180. Vehicles, conveyances and containers—Applicable regulations.
- 8.16.190. General penalties and administrative penalties.
- 8.16.200. Civil penalties.
- 8.16.210. Remedies cumulative.

8.16.010. Purpose.

It is the purpose of this chapter to set forth terms and conditions pursuant to which authorization may be granted by the city council to provide solid waste and residential recyclable materials handling services and, on occasion, to provide certain recycling services to commercial and industrial facilities; and to promote the public health, welfare and safety of the community by establishing reasonable regulations relating to the storage, accumulation, collection and disposal of garbage, trash, rubbish, debris and other discarded matter, goods and material, and recyclable materials.

8.16.020. Definitions.

(a) "City licensed disposal service operator" means a disposal service operator who has been granted a city license or franchise by the city pursuant to Section 8.16.090.

(b) "Collection station" means the location at which solid waste or recyclable materials are placed in containers for collection by the city licensed disposal service operator.

(c) "Compostable materials" means vegetative matter, such as leaves, separated and stored in such a way as to promote its controlled aerobic decomposition into compost or mulch.

(d) "Director" means the director of environmental services or designee.

(e) "Disposal area" means the premises or site where the disposal of solid waste not produced on such premises or site is permitted or occurs.

(f) "Disposal service operator" means any person hauling solid waste and/or recyclable materials in the city of Sunnyvale whether such hauling is done with or without compensation. Disposal service operator does not include or mean an individual hauling solid waste from his own home for purposes of disposing of same at an established disposal area as provided for in Section 8.16.160; provided, however, such solid waste is not produced, created or accumulated in the course of any business operations.

(g) "Garbage" means the putrescible animal, fish, food, fowl, fruit or vegetable matter, or any portion thereof, resulting from the preparation, storage, handling, or consumption of such substances.

(h) "Hazardous waste" means waste defined as hazardous by Public Resources Code Section 40141 as it now exists or may subsequently be amended, namely, a waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency ("EPA") or other agency of the United States Government, or by the California Legislature or any agency of

the state of California empowered by law to classify or designate waste as hazardous, extremely hazardous or acutely hazardous.

(i) "Person" includes any person, firm, association, organization, partnership, business trust, joint venture, corporation, or company, and includes the United States, the state of California, and the county of Santa Clara, special purpose districts, and any officer or agency thereof.

(j) "Receptacle" means 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.

(k) "Recyclable materials" means solid domestic, commercial or industrial by-products of some potential economic value, separated, handled, packaged or offered for collection in a manner different from solid waste.

(l) "Recyclable waste oil" means recycled oil, as defined in subdivision (c) of Section 25250.1 of the California Health and Safety Code.

(m) "Recycling container" means a container provided by the city or by a city licensed disposal service operator for receiving and holding recyclable materials.

(n) "Solid waste" means all putrescible and nonputrescible solid, and semisolid wastes, including garbage, compostable materials, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other semisolid wastes. Solid waste does not include hazardous waste or household hazardous waste, medical waste, radioactive waste, sewage, abandoned vehicles and parts thereof, or restaurant grease and tallow.

(o) "Solid waste container" means a plastic or metallic can with close-fitting cover, cover handle and side bails of thirty-two gallons or less in gross capacity, or a container provided by the city or by a city licensed disposal service operator for receiving and holding solid waste.

(p) "Source separated recyclable materials" means any recyclable materials, whether or not combined with other solid recyclable materials, source separated for collection, not containing more than an incidental amount of contamination by solid waste, but in no circumstances to exceed ten percent by volume of such solid waste.

(q) "Waste" means the useless, unused, unwanted, or discarded material and debris resulting from normal community or business activities, or materials which by their presence may injuriously affect the health, safety and comfort of persons and depreciate property values in the vicinity thereof.

8.16.030. Solid waste container requirements.

(a) It is unlawful for any person occupying or maintaining any premises within the city, where any solid waste is created, produced or accumulated upon the premises, to fail or neglect to procure a container or containers for receiving and holding, without leakage or escape of odors, all solid

waste which is produced, created or accumulated upon the premises and all persons shall deposit all solid waste in a container.

(b) Solid waste containers shall not exceed thirty-two gallons in volume or seventy pounds weight when filled for removal, except when such container or containers are furnished by a city licensed disposal service operator pursuant to regulations prescribed by the city.

(c) All containers shall be maintained at all times in a sanitary and tidy condition. All materials shall be placed inside the containers and shall not be placed outside nor allowed to spill out of such containers. Where containers are equipped with lids, all lids shall be maintained closed when waste is in the container.

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

8.16.040. Solid waste removal.

All solid waste, other than compostable materials, created, produced or accumulated in or about dwelling houses situated anywhere in the city shall be disposed of or removed from the premises at least once each week. All solid waste, other than compostable materials, created, produced or accumulated on all other premises shall be disposed of or removed from such premises at least once each week, or oftener, if necessary, except for containers of seven or more cubic yards capacity containing only nonputrescible solid waste. Containers of seven or more cubic yards capacity shall be maintained only so long as in active use for purposes as neighborhood cleanup, collection of construction debris, etc., and shall not remain without removal for excessive periods of time. Upon a determination by the director that a container has been maintained for an excessive period of time, the person responsible for the container shall, upon written notice, cause it to be removed.

8.16.050. Solid waste containers.

It is unlawful to permit any solid waste or recycling container to remain in public view from any public right-of-way in any R-0, R-1, R-1.5, R-1.7/PD or R-2 district unless the container is stored in the side yard of the premises behind the face of the house. For scheduled curbside pick-up, containers are permitted in public view during the fifty-four-hour period commencing at 12:01 a.m. on the day preceding the day of scheduled pick-up and terminating at six a.m. on the day following such pick-up.

8.16.060. Solid waste—Deposit—Where prohibited.

(a) It is unlawful for any person to throw or deposit, or cause to be thrown or deposited, any solid waste, or recyclable materials or abandoned vehicle parts, or allow any collection of same to remain, in or upon any public right-of-way, watercourse, waterway, levees or banks of watercourses or waterways, or upon any premises whatsoever except an approved disposal area.

(b) It is unlawful to dispose of solid waste in a container owned or rented by a person other than the generator of such solid waste, without

permission from the owner or renter of the container to deposit solid waste in the container.

8.16.070. Solid waste burning.

It is unlawful for any person to burn solid waste within the city, except that dry waste may be burned by owners or producers thereof on privately owned property, when the hours and conditions of such burning have been approved in advance by the Bay Area Air Quality Management District.

8.16.080. Recyclable waste oil.

(a) Recyclable waste oil which is placed in a designated recycling collection location for collection under the city's waste oil collection program shall be placed in containers not exceeding one gallon in capacity with a screw top lid. Containers shall be maintained so that recyclable waste oil may be contained without leakage.

(b) Recyclable waste oil which is placed in a designated recycling collection location for collection under the city's waste oil collection program shall remain the property of the waste oil generator until such waste oil is collected by the city or city licensed disposal service operator.

(c) Upon the collection of recyclable waste oil, the recyclable waste oil shall become the property of the city licensed disposal service operator, as set forth in the agreement for collection of waste oil between the city and the licensed disposal service operator.

8.16.090. Collection and disposal—Issuance of franchises or licenses.

The city council shall provide for the collection and disposal of solid waste and recyclable materials generated from residences within the city by the issuance of a franchise or license, or franchises and licenses, to disposal service operators. The terms and conditions under which the disposal service operators are required to collect and dispose of solid waste and residential recyclable materials shall be specified in the applicable franchise or license and the rates for such collection and disposal operations shall be established by resolution of the city council.

8.16.100. Collection rates—Liability—Penalty for nonpayment.

The city council finds that the periodic collection and disposal of solid waste from all places in the city benefits all places and premises in the city and therefore all persons occupying or maintaining any premises within the city are made liable for the solid waste collection rates established by resolution of the city council in connection with any franchise or license, issued pursuant to this chapter and the Charter of the city, for the collection and disposal of solid waste. All such collection rates imposed as herein provided shall be a civil debt owing the city from the occupant of the property receiving the services; provided, however, that where this code provides that such collection rates shall be a civil debt owing the city from the owner of the property receiving the service, such provision shall govern liability to the city for such service. The presence of active

water service shall be the primary method of determining occupancy and liability of solid waste collection rates. As to customers to whom the city provides water service, all such collection rates shall be included as a part of the municipal water bills and shall be due and payable at the same time as municipal water bills. Failure or refusal to pay the rates when due shall subject the person obliged to pay the same to discontinuance of solid waste and water service provided by the city pursuant to Chapter 12.50 of this code.

8.16.110. Collection stations—Number and location.

The collection station for single-family, two-family, and three-family residential uses shall be the street curb line adjacent to such premises and solid waste and recycling containers shall be placed in that location by the occupant of the premises for collection by the city licensed disposal service operator(s). The number and location of collection stations for other classes of uses shall be determined by the occupant of the premises and shall be easily accessible to the city licensed disposal service operator(s) for collection of the solid waste or recyclable materials accumulated at such location for collection.

8.16.120. Removal by disposal service operator—Interference unlawful.

Removal, transportation and disposal of solid waste from all premises within the city shall be completed only by a disposal service operator to whom a franchise or license to do so has been granted by the city of Sunnyvale. It is unlawful for any person to interfere in any manner with the lawful operations of such authorized disposal service operator.

8.16.130. Solid waste property of franchise holder or licensee.

All solid waste upon being removed from the premises where produced or accumulated shall become and be the property of the franchise holder or licensee authorized by the city to remove the same until it has been properly delivered to the disposal area.

8.16.140. Destroying, scattering or collecting recyclables without the consent of owner unlawful.

It is unlawful for any person to burn, break, destroy, scatter, collect or take any recyclable materials without the consent of the owner of such materials. Consent to collection of such materials may be either oral or written, or may be, manifested by a practice or arrangement between the owner and a donee or donees, whereby recyclable materials are placed in a particular place, area or distinctive container, for regular collection by the done.

8.16.150. Collecting or hauling without franchise or license unlawful.

(a) It is unlawful for any person to engage in the business of collecting solid waste within the city, or to haul the same through any street or public right-of-way in the city, unless such person has been granted a franchise or license to do so by the city.

(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.

8.16.160. Exclusions.

(a) Residential Householders. No provision of this chapter shall prevent a residential householder from collecting and disposing of occasional loads of solid waste generated in or on his or her residential premises, or from composting yard trimmings, or from selling, donating or disposing of recyclable materials generated in or on his or her residential premises to other than the city's licensed disposal service operator. However, the containers provided by the city or the city's licensed disposal service operator may not be used for activities authorized by this paragraph.

Notwithstanding the foregoing, no residential householder shall employ or engage any solid waste enterprise, other than the city's licensed disposal service operator, to haul or transport solid waste or recyclable materials to a disposal or processing facility.

(b) Gardeners. No provision of this chapter shall prevent a gardener, tree trimmer or person engaged in a similar trade from collecting and disposing of grass cuttings, prunings, and similar material not containing other solid waste when incidental to providing gardening, tree trimming or similar services.

(c) Collection of Source Separated Recyclable Materials. No provision of this chapter shall prevent a recycler, junk dealer or other enterprise engaged in the business of buying and marketing source separated recyclable materials in the stream of commerce and which buys such materials for marketing and not for disposition in a landfill or transfer station (as defined in Public Resources Code Section 40200) from buying recyclable materials for a monetary or other valuable consideration; nor shall any provision of this chapter prevent a recycler, junk dealer or enterprise which buys the materials from removing and transporting the materials to a destination for marketing in the stream of commerce.

(d) Renovation, Rebuilding, Repairs. No provision of this chapter shall prevent a commercial/industrial business owner from arranging for any worn, spent, or defective equipment, or part thereof, used in a commercial business and requiring renovation, rebuilding, recharging, regeneration or repair, to be picked up, renovated, rebuilt, recharged, regenerated or otherwise restored and repaired and returned to such commercial/industrial business owner; nor shall any provision of this chapter prevent any person engaged in the business of renovating, rebuilding, recharging, regenerating, or otherwise restoring or repairing equipment or part thereof, from transporting the same from or returning it to the commercial business, or from removing, transporting or disposing of any equipment, or part thereof, replaced in connection with an equipment repair or service contract.

(e) Contractors. No provision of this chapter shall prevent a licensed contractor having a contract for the demolition or reconstruction of a building, structure, pavement, or concrete installation from marketing any saleable items salvaged from demolition or reconstruction, or from causing salvageable items or

construction or demolition waste to be removed and transported from the premises on which the waste is generated, pursuant to the provisions of the demolition or construction contract, subject to the following:

(1) Collection, removal and disposal activity shall be only by the licensed contractor having the contract for the construction or demolition work that generated salvageable items or construction or demolition waste, or by regularly employed personnel carried on the licensed contractor's payroll records as an employee.

(2) All vehicles used in carrying out collection, removal and disposal activities shall be owned by or under the exclusive control of the licensed contractor and shall meet all of the requirements of this chapter and all other laws, statutes, rules, regulations and ordinances of the state of California and the city.

(f) Document Destruction Service. No provision of this chapter shall prevent any person engaged in the business of destroying or disposing of secret, confidential or sensitive documents from transporting or disposing of documents, as a part of such document destruction or disposal service.

(g) Upon request by the city, any person claiming to be exempt under the provisions of this section shall submit credible evidence such as contracts, invoices, sales orders, statements signed under penalty of perjury, or other documentation sufficient to verify that such person qualifies for the exemption. The failure to provide such evidence may be used as evidence of a violation.

8.16.170. Impounding of receptacles placed in violation of chapter.

(a) Any person who violates Section 8.16.150(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 8.16.150 within the time set forth in the notice, which shall not be less than twenty-four hours after posting of the notice, or not less than six 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 environmental services, attention solid waste programs. 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, including but not limited to fees for unloading the material at the Sunnyvale Materials Recovery and Transfer Station and any costs related to disposal of hazardous materials. 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.

8.16.180. 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 chapter 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.

8.16.190. 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.

8.16.200. Civil penalties.

Any person who violates any provision of this chapter shall be civilly liable to the city in the sum not less than fifty dollars, nor more than five hundred dollars per day for each day in which such violation occurs. The city attorney may petition the superior court to impose, assess, and recover such sums.

8.16.210. Remedies cumulative.

The remedies provided for in this chapter shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the city.

SECTION 2. 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 3. 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 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. 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 September 15, 2015, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2015, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney