

ORDINANCE NO. NS-2808

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SANTA ANA AMENDING SECTION 16-30 OF THE
SANTA ANA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS
FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines
and declares as follows:

- A. Santa Ana Municipal Code (SAMC) Section 16-30 grants to the City of Santa Ana and its solid waste collection contractor the exclusive right to collect and process solid waste generated in the City; and
- B. SAMC Sec 16-30 allows the generator of recyclable solid waste to sell or donate such waste; and
- C. The City desires to clarify its intent that a recyclable solid waste generator may not provide any tangible consideration to any party for collecting such donated recyclable solid waste; and
- D. The California Department of Resources Recycling and Recovery (CalRecycle) is responsible for the regulation of solid waste collection, transportation, and disposal; and
- E. All provisions of the Santa Ana Municipal Code which are repeated herein are repeated solely in order to comply with the provisions of section 418 of the Charter of the City of Santa Ana. Any such restatement of existing provisions of the Code is not intended, nor shall it be interpreted, as constituting a new action or decision of the City Council, but rather such provisions are repeated for tracking purposes only in conformance with the Charter.

Section 2. Section 16-30 of the Santa Ana Municipal Code is hereby amended to acknowledge that the California Department of Resources, Recycling and Recovery now regulates solid waste management in California and to clarify that no compensation may be made to the donee, buyer or any third party for the collection, processing or transportation of recyclable solid waste, such that it reads as follows:

Sec. 16-30. Exclusivity and exclusions thereto.

(a) The city and its solid waste collection contractor have the exclusive duty, right, and privilege to collect, transport, process, recycle, divert by means of composting, mulching, and/or transforming, retaining and disposing of all solid waste accumulated, produced or generated in the city, and all solid waste placed for collection either by the city or its solid waste collection contractor shall be deemed to be the property thereof, except as otherwise provided herein. This exclusivity shall not include construction and demolition solid waste which has accumulated and/or been generated at a temporary construction site and which is being disposed of in a roll-off container(s) or in bin(s).

(b) A person who generates solid waste, or who owns the premises upon which solid waste has generated or accumulated, may personally collect, transport and dispose of its own solid waste so long as it:

- (1) Does so in accordance with all governing laws and regulations; and,
- (2) Disposes of such solid waste at a site permitted by the California Department of Resources Recycling and Recovery (CalRecycle).

(c) A person who generates solid waste, or who owns the premises upon which solid waste is generated or accumulated, may: (1) sell or, (2) donate its recyclable solid wastes; provided, however, that in both instances: (a) the person must, on its premises, segregate (by waste type) from other solid waste the recyclable solid waste to be sold or donated, and (b) the person may not pay the buyer or donee, or any third party, any tangible consideration, including service, consulting or other fees or discount/reduction of fees, for collecting, processing, or transporting such segregated recyclable solid wastes. A person who simply receives a discount of, or reduction in, the collection, processing or disposal service rates for solid waste shall not be deemed to be selling or donating recyclable solid wastes for purposes of this exception. At the request of the City, a person who sells or donates its recyclable waste shall provide documentation, including receipts from the person buying or receiving the donated recyclables evidencing the sale or donation, and invoices or agreements for hauling or recycling services.

(d) A gardener, tree trimmer, or person engaged in landscape maintenance who has a business license to operate in the city may collect yard waste or other organic solid wastes which it generates as an incidental portion of providing its licensed services. Any yard waste or other organic solid waste collected pursuant hereto must be transported by the gardener, tree trimmer or person to a composting facility permitted by CalRecycle in accordance with all laws and regulations.

(e) Any person may collect, transport, and dispose of solid waste during a period in which collection services by the city or its solid waste collection contractor are interrupted or delayed due to a labor strike or other circumstances affecting collection

services throughout the city, provided such persons comply with any and all directives of the executive director of public works.

(f) Any person with whom the city has an agreement for the collection, transportation and disposal of construction and demolition solid waste which has accumulated and/or been generated at a temporary construction site may haul such waste during the term of such agreement.

(g) The executive director of public works may, by written permit, authorize provision of bin service if the city's solid waste collection contractor fails to provide such service within five (5) calendar days after a customer order and such service is not thereafter provided within twenty-four (24) hours after notice to the city's solid waste collection contractor of such failure by the executive director of public works.

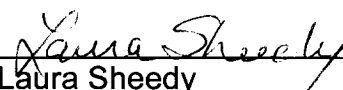
(h) Any person other than the city or its solid waste collection contractor who collects, transports, recycles, composts, or disposes of solid waste, or who pays another to do so, other than as permitted by subsection (b), (c), (d), (e) or (f) is guilty of a misdemeanor.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

ADOPTED this 18th day of October 2010.


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Joseph W. Fletcher, City Attorney

By: 
Laura Sheedy
Assistant City Attorney

YES: Councilmembers: Alvarez, Benavides, Bustamante, Martinez, Pulido
Tinajero, Sarmiento (7)

NOES: Councilmembers: None (0)

ABSTAIN: Councilmembers: None (0)

NOT PRESENT: Councilmembers: None (0)

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify that Ordinance No. NS-2808 to be the original ordinance adopted by the City Council of the City of Santa Ana on October 18, 2010 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: 10/22/2010

Maria D. Huizar
Clerk of the Council
City of Santa Ana