

ORDINANCE NO. 561

AN ORDINANCE OF THE CITY OF FOSTER CITY ADDING CHAPTER 8.07 – STORAGE AND DISPOSAL OF SOLID WASTES AND RECYCLABLE MATERIALS, OF TITLE 8, HEALTH AND SAFETY, TO THE FOSTER CITY MUNICIPAL CODE

CITY OF FOSTER CITY

**THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES FIND AND ORDAIN as follows:**

Section 1. A new Chapter 8.07 shall be added to Title 8 of the Foster City Municipal Code, which chapter shall replace, in its entirety, Chapter 6.04, Storage and Disposal of Solid Wastes, of Title 6 of the EMID Code. It shall read:

**Chapter 8.07 STORAGE AND DISPOSAL OF SOLID WASTES AND RECYCLABLE MATERIALS\***

Sections:

- 8.07.010 Definitions.
- 8.07.020 General provisions.
- 8.07.030 Storage.
- 8.07.040 Operator responsibility.
- 8.07.050 Collection by unauthorized persons prohibited
- 8.07.060 Scavenging
- 8.07.070 Garbage containers.
- 8.07.080 Identification of containers.
- 8.07.090 Use of container.
- 8.07.100 Removal or relocation of containers
- 8.07.110 Illegal dumping of refuse
- 8.07.120 Ownership of materials
- 8.07.130 Frequency of refuse removal.
- 8.07.140 Violation—Removal.
- 8.07.150 Violation—Infraction.
- 8.07.160 Violation—Penalty.
- 8.07.170 Separate offenses
- 8.07.180 General penalty—continuing violations

\* For statutory provisions regarding littering and dumping on highways, see Veh. Code §§ 23111, 23113; for statutory provisions prohibiting dumping on public property, see Health and Safety Code § 117550 et seq.; for provisions prohibiting littering, see Pen. Code § 374.3.

**8.07.010 Definitions.**

Whenever used in this chapter, the following words shall have the meaning indicated.

- A. **“City”** means the City of Foster City.

- B. **“City Council” (or “council”)** means the City Council of the City of Foster City.
- C. **“Collection”** means the act of collecting solid waste at the place of waste generation by an approved collection agent and is distinguished from “removal.”
- D. **“Container”** shall mean and include any form of solid waste or recyclable materials receptacle which is placed for collection upon any public or private property within the City by any person or entity.
- E. **“Litter”** includes any post-consumer solid waste which is not deposited in:
1. An authorized solid waste disposal site;
  2. Appropriate and serviced storage containers; or
  3. In other areas designated for disposal of solid wastes.
- F. **“Owner”** means the owner of land as shown on the last equalized roll on which the district collects taxes.
- G. **“Person”** means a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or public or private corporation, its or their successors or assigns, or the agent of any of the aforesaid.
- H. **“Premises”** includes a tract or parcel of land with or without habitable buildings or appurtenant structures.
- I. **“Putrescible wastes”** includes wastes that are capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions, and includes materials such as food waste, offal and dead animals.
- J. **“Recyclable Materials”** shall mean those materials that are suitable for recycling.
- K. **“Recycling”** shall mean the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw materials for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.
- L. **“Refuse Collector”** shall mean an agent or employee of the City or any person with whom the City shall have duly contracted, under the terms of this Chapter, to collect and transport solid waste out of the City.
- M. **“Removal”** means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.
- N. **“Scavenger”** shall mean individual(s) who are involved in the unauthorized taking of recyclable materials either in or near a recycling container set out for collection.
- O. **“Solid Waste”** shall mean and be held to include all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including “garbage”, “trash”, “refuse”, “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 semi-solid wastes, and other discarded solid and semi-solid wastes. Solid waste does not include hazardous waste or low-level radioactive waste or medical waste. Solid waste

does not include recyclable materials set out for separate collection for the purposes of recycling, and that are not land filled.

P. **“Vector”** includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and well being. (Ord. 68 § 2, 1976: Ord. 26 § 1, 1967)

**8.07.020 General provisions.**

The owner, operator and/or occupant of any premises, business establishment, industry, or other property, vacant or occupied, shall be responsible for the safe and sanitary storage of all solid waste accumulated on the property. No person shall place, deposit, dump or throw refuse or other litter on any lands within the City, except in a properly covered container on property owned or controlled by him, or in a disposal area designated as such by the City Council. (Ord. 68 § 3, 1976: Ord. 26 § 2, 1967)

**8.07.030 Storage.**

The property owner or occupant shall store solid waste on his premises or property or shall require it to be stored or handled in such a manner so as not to promote the propagation, harborage or attraction of vectors, or the creation of nuisances. (Ord. 68 § 4, 1976: Ord. 26 § 3, 1967)

**8.07.040 Operator responsibility.**

Where the collection operator furnishes storage containers, he is responsible for maintaining the containers in good condition (ordinary wear and tear excepted), unless they are furnished under other terms, conditions or agreements. He shall plan with the property owner and/or occupant as to placement of storage containers to minimize traffic, aesthetic and other problems both on the property and for the general public. (Ord. 68 § 5, 1976: Ord. 26 § 4, 1967)

**8.07.050 – Collection by unauthorized persons prohibited.**

Collection, removal and disposal of refuse may be performed by the Public Works Department, Parks Department, or its authorized representatives or any person with whom the City has entered into or may enter into contract with for the collection, removal and disposal of refuse, and it is declared to be an infraction for any person other than those as above stated to remove, or convey or cause or permit to be removed or conveyed, any refuse upon or along any public street or alley or other public place in the City without a special written permit as required by this Article.

**8.07.060—Scavenging.**

Scavenging is prohibited in the City. Unless otherwise authorized by the City in writing, recyclable materials may not be removed by anyone other than an authorized recycling agent(s).

1. No person, other than the authorized recycling agent, shall remove recyclable materials which have been segregated from other waste materials and placed at the designated collection location for the purposes of collection and recycling.
2. No person shall scavenge, search through, or remove from a container or other receptacle located on any public street, alley, parkway, right of way or other public property any solid waste or recyclable materials which have been placed therein for collection.

Subsection (1) of this section shall not apply to City authorized solid waste collection activities, authorized members of any law enforcement agency or to any members of the same household and their contractors or employees who place solid waste or recyclable materials in a container or other receptacle on a public street, alley, parkway, right of way, or other public property in the City.

Nothing in this chapter shall limit the right of any person to donate, sell or otherwise dispose of his or her own recyclable materials.

**8.07.070 Garbage containers.**

The owner, operator and/or occupant shall deposit all garbage and putrescible matter which would have a deleterious effect on a garbage disposal unit or sanitary sewerage system, or solid waste, in containers which are either nonabsorbent, watertight, vector-resistant, durable, easily cleanable, and designed for safe handling, or in paper or plastic bags having sufficient strength and water tightness and which are designed for the containment of refuse. Containers for solid waste should be of an adequate size and in sufficient numbers to contain, without overflowing, all the refuse that a household or other establishment generates within the designated removal period. Containers shall be maintained in a clean, sound condition free from putrescible residue. (Ord. 68 § 6, 1976: Ord. 26 § 5, 1967)

**8.07.080 Identification of containers.**

Containers of one cubic yard or more owned by the collection service operator shall be identified with the name and telephone number of the agent servicing the container. (Ord. 68 § 7, 1976: Ord. 26 § 6, 1967)

**8.07.090 Use of container.**

No person shall tamper with, modify, remove from or deposit solid wastes or recyclable materials in any container which has not been provided for his use, without the permission of the container owner. (Ord. 68 § 8, 1976: Ord. 26 § 7, 1967)

**8.07.100—Removal or relocation of containers**

It is unlawful for any person other than the person in charge of a residence, commercial, or industrial business, or the City's Contractor to remove any container from the location where the container was placed by the person in charge for storage or collection or to remove any solid waste from the location the solid waste was placed by the person in charge for storage or collection.

**8.07.110—Illegal dumping of refuse**

It is unlawful to place refuse in or near any standard container or commercial bin without prior written approval of the person in charge of the container.

No person shall dump, place or bury in any lot, land, street or alley, or in any water or waterway or elsewhere within the City any garbage, trash, rubbish or manure, or any waste matter condemned by the Health Department or its authorized representatives.

**8.07.120—Ownership of materials**

All ownership and title rights to recyclable materials shall be vested in the City once such recyclable materials have been placed at the designated collection location by the resident, institutional or commercial entity. All ownership and title rights to recyclable materials shall be transferred to the authorized recycling agent(s) at the time that the authorized recycling agent(s) remove the material from the designated collection location unless otherwise stipulated in writing by the City Manager.

Unless specifically stated in a written agreement between the refuse collector and the City Council, all refuse, once collected, becomes the property of the refuse collector to dispose of as he deems fit; provided, that the manner of disposal does not conflict with any provisions of this Chapter.

**8.07.130 Frequency of refuse removal.**

The owner, operator and/or occupant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all refuse accumulated by him on his property or his premises. Excepting disruptions in normal refuse collection schedules, garbage shall not be allowed to remain on the premises for more than seven days, to prevent propagation, harborage or attraction of flies, rodents or other vectors, and the creation of nuisances. Where it is deemed necessary by the local health officer, because of the propagation of vectors and for the protection of public health, more frequent removal of garbage shall be required. Where garbage and rubbish are containerized together, the period of removal shall be that applied to garbage. (Ord. 68 § 9, 1976: Ord. 26 § 8, 1967)

**8.07.140 Violation—Removal.**

Any person who places, deposits, dumps or throws, or maintains or allows to be maintained, refuse or other litter in violation of this chapter, shall immediately remove or cause the removal of same. (Ord. 68 § 10, 1976: Ord. 26 § 9, 1967)

**8.07.150 Violation—Infraction.**

No person shall violate any provision or fail to comply with any requirement of this chapter. A person violating a provision or failing to comply with any of the mandatory requirements of this chapter is guilty of an infraction.

**8.07.160 Violation—Penalty.**

A person convicted of an infraction under this chapter shall be punished by a fine of not more than one hundred dollars for a first violation, two hundred dollars for a second violation within the next twelve months, and five hundred dollars for additional violations within the next twelve months.

**8.07.170 Separate offenses.**

Each person is guilty of a separate offense for each and every day during any portion of which the violation of this code is committed, continued or permitted by that person.

**8.07.180 General penalty—continuing violations.**

In addition to the penalties provided herein, any condition caused or permitted to exist in violation of a provision of this code is a public nuisance and may be summarily abated as such. Each day that the condition continues it is a new and separate offense.

Pursuant to Section 38773.5 of the California Government Code, in any action, administrative proceeding, or special proceeding brought by the city of Foster City to abate a public nuisance, the prevailing party shall be entitled to reasonable attorneys' fees. Recovery of attorneys' fees shall be limited as follows:

- A. To those actions or proceedings where the city has elected to recover attorneys' fees at the initiation of such actions or proceedings.
- B. The amount of attorneys' fees in any action, administrative action, or special proceeding awarded to a prevailing party shall not exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

**Section 2. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentences, clauses, or phrases be declared unconstitutional.

**Section 3. Taking Effect.** This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

**Section 4. Posting.** Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places by the City Council.

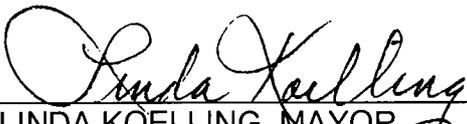
This Ordinance was introduced and read on the 3<sup>rd</sup> day of January 2011, and passed and adopted on the 18<sup>th</sup> day of January 2011, by the following vote:

AYES: Councilmembers Bronitsky, Frisella, Kiesel, Wykoff, and Mayor Koelling

NOES: None

ABSENT: None

ABSTAIN: None

  
LINDA KOELLING, MAYOR

ATTEST:  
  
DORIS L. PALMER, CITY CLERK

## CERTIFICATE OF POSTING

I, Doris L. Palmer, hereby certify as follows:

That I am, and at all time herein mentioned, was the duly acting and qualified City Clerk/District Secretary of the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California.

I further certify to the proper posting of:

City Ordinance No. 561, "An Ordinance of the City of Foster City Adding Chapter 8.07 – Storage and Disposal of Solid Wastes and Recyclable Materials, of Title 8, Health and Safety, to the Foster City Municipal Code [First Reading January 3, 2011]"

in the following four public places of the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California:

1. Federal Post Office, Charter Square  
1050 Shell Boulevard
2. Recreation Center Lobby  
650 Shell Boulevard
3. Council Chambers (not a mandatory posting site)  
620 Foster City Boulevard
4. Foster City Public Library  
1000 E. Hillsdale Boulevard

Executed at the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California this 19<sup>th</sup> day of January, 2011.



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Doris L. Palmer  
City Clerk/District Secretary