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**REGULAR**

**NUMBER:** 48.17

**TITLE:** AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTION 3.20 CHAPTER 200, TITLE V OF THE MILPITAS MUNICIPAL CODE, RELATING TO SOLID WASTE MANAGEMENT.

**HISTORY:** This ordinance was introduced at a meeting of the City Council of the City of Milpitas on April 18, 2006, by motion of Councilmember _____, and was adopted at a meeting of said Council on _____, upon motion of Councilmember _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

_____
Mary Lavelle, City Clerk

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

**Section 1.** **Amendment to Section V-200-3.20 .** Title V, Chapter 200, Section 3.20 of the Milpitas Municipal Code is hereby amended to add the following language such that Title V, Chapter 200, Section 3.20 shall read as follows:

**V-200-3.20 Owner Responsible for Solid Waste, Recyclables, and Yard Trimmings Collection Service**

The owner of any premises shall subscribe to and pay for solid waste, recyclables, and yard trimmings collection service rendered to such premises by an authorized contractor and shall maintain at a location in accordance with the provisions of this Chapter, a solid waste, recycling and/or yard trimmings container(s), where applicable, in accordance with the provisions of this Chapter.

Without limitation to the provisions of Section V-200-9 of this Chapter, the owner of the premises has an obligation to pay for solid waste, recyclables, and yard trimmings collection services. In the case of those premises receiving service at the single unit service level, as defined in the agreement for the collection and disposal of solid waste between City and Browning-Ferris Industries of California, Inc., dated September 2, 1986 and as amended thereafter, such obligation runs directly to City, and thus the owner shall be liable to City for solid waste, recyclables, and yard trimmings collection service charges.

A residential premises is occupied when a person takes or holds possession of the premises for use as a permanent or temporary dwelling. For the purpose of determining whether a residential premises was occupied during periods when solid waste collection service was provided to such premises, a residential premises shall be presumed to have been so occupied unless evidence is presented that water utility service was not being provided to such premises during such periods. Such presumption shall be rebutted only by water utility records showing that the premises was then unoccupied.

An industrial or commercial premises is occupied when a building occupancy permit is issued. An agricultural premises is occupied when a person takes or holds possession of the premises for agricultural purposes.

For utility accounts opened on or after June 2, 2006 serving residential premises with single-family solid waste service connected to a common water meter installed to provide water to two or more residential units, the owners shall designate an agent who shall be responsible for payment to the City for water, recycled water, solid waste and sewer services on behalf of the owners. Nothing in this section is intended to prevent an arrangement, or the continuance of an existing arrangement, under which payments for collection service are made by a tenant or tenants, or any agent, on behalf of the owner. Any such arrangement, however, will not affect the owner's obligation as provided herein. (Ord. 48.12 (part), 12/5/95)

**Section 2.** EFFECTIVE DATE; PUBLICATION. This ordinance shall take effect 30 days following its passage, and prior to the expiration of 15 days of the passage thereof shall be published at least once in a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara, thenceforth and thereafter the same shall be in full force and effect.