

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING SECTION 8.04.020 AND SECTION 8.04.080 OF THE CITY OF CAPITOLA MUNICIPAL CODE REGARDING THE STORAGE OF WASTE COLLECTION CONTAINERS**

WHEREAS, in December 2021, the City Council of City of Capitola adopted amendments to Chapter 8.04 of the Capitola Municipal Code regarding Solid Waste and Edible Food Recovery to comply with the Sate's Mandatory ; and

WHEREAS, the December 2021 amendments inadvertently omitted certain requirements for storage of waste collection containers on residential and commercial properties that existed in the prior version of Chapter 8.04; and

WHEREAS, the City of Capitola has an interest in ensuring that waste collection containers are stored in an aesthetically pleasing and sanitary manner; and

WHEREAS, the City Council desires to implement regulations on the storage of waste collection containers within the City, similar to requirements that existed prior to the 2021 amendments to Chapter 8.04.

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

**Section 1.** The above findings are adopted and incorporated herein.

**Section 2.** Section 8.04.020 (Accumulation of solid waste) is amended as follows:

**Subsection E is added as follows:**

E. Containers shall be placed out of public view on non-collection days. The city manager shall have the authority to approve exceptions to this subsection. In no case shall containers be placed in the public right-of-way or in a manner that constitutes a hazard or danger to vehicular or pedestrian traffic.

**Section 3.** Section 8.04.080(a) (Commercial business requirements) is amended as follows. New language is shown in underline.

A. Each owner, operator, or manager of a commercial business shall ensure the proper separation of solid waste generated on such premises, as required by the authorized collector, by placing each type of material in designated collection containers, and ensure that employees, contractors, volunteers, customers, visitors, and other persons on site follow source separation requirements related to solid waste as required by the authorized collector. Each owner, operator, or manager of a commercial business, except for multifamily dwellings, shall prohibit employees from placing materials in a container not designated for those materials, and shall periodically inspect containers for organic waste and inform employees of requirements to ensure such containers are only used for organic waste.

Commercial waste collection containers must be stored in designated enclosures, to ensure that such containers are kept out of the public view and to ensure smells or other nuisance

conditions associated with garbage and rubbish collection are mitigated. If siting constraints prohibit storage of commercial waste containers in designated enclosures, the city manager may approve an alternate location on the premises.

**Section 4.** Environmental Review.

The City Council finds and determines that enactment of this Ordinance is not a project under Section 15060(c)(2) of the California Environmental Quality Act ("CEQA") Guidelines because the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment, and CEQA Guidelines Section 15060(c)(3), because the activity required by the Ordinance is not a project as defined in Section 15378 of the CEQA Guidelines. Alternatively, enactment of this Ordinance is statutorily exempt pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption of this Ordinance will have significant effect on the environment.

**Section 5.** Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

**Section 6.** Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

**Section 7.** Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the 23<sup>rd</sup> day of February, 2023, and was adopted at a regular meeting of the City Council on the \_\_\_ day of \_\_\_\_\_ 2023, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
Margaux Keiser, Mayor

Attest: \_\_\_\_\_  
Julia Moss, City Clerk

Approved as to form:

\_\_\_\_\_  
Samantha W. Zutler, City Attorney