

# Capitola City Council

## Agenda Report



**Meeting:** February 26, 2023

**From:** Public Works Department

**Subject:** Capitola Municipal Code Amendment Regarding the Storage of Waste Collection Containers

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**Recommended Action:** Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Capitola Municipal Code Sections 8.04.020 and 8.04.080 regarding the storage of waste collection containers.

**Background:** In December 2021, the City Council, pursuant to the requirements of State Senate Bill 1383, adopted Ordinance No. 1049 repealing Capitola Municipal Code Chapter 8.04 "Garbage" and enacting Chapter 8.04 "Solid Waste and Edible Food Recovery". Upon further review of the ordinance, Staff discovered that the sections regulating the storage of waste collection containers in the previous ordinance were inadvertently omitted from the new ordinance.

Language regarding commercial containers was included in the original code as Section 8.04.070(B)(1):

*When garbage containers and/or garbage container storage areas, in commercial areas, are likely to be smelled by or seen by persons other than the owners, occupiers, or employees of the premises in question. For the purposes of this section, dumpster-type containers which are not shielded from public view by an enclosure shall, be deemed a nuisance unless waiver from this requirement has been granted in writing by a city enforcement officer upon a showing that no realistic alternative is available.*

In 2008, Ordinance 928 added the following language regarding residential collections containers as Section 9.04.070(D)

*Containers shall be placed out of public view on noncollection days. The city manager shall have the authority to approve exceptions to this code section. 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.*

**Discussion:** Staff has prepared the attached ordinance to correct the above omissions, by adding to following code language.

Section 8.404.020(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 8.040.080(A):

*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.*

**Fiscal Impact:** There is no fiscal impact related to adopting this ordinance.

**Environmental Determination:** 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.

Attachments:

1. Proposed Ordinance

Report Prepared By: Jessica Kahn, Public Works Director

Reviewed By: Julia Moss, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager