

ORDINANCE NO. 15-007

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING
PACIFIC GROVE MUNICIPAL CODE CHAPTER 9.16 RELATING
TO SOLID WASTE COLLECTION**

WHEREAS, state regulations related to solid waste continue to evolve. Current guidelines, for example, point to a 75% diversion rate; and

WHEREAS, the City recently signed a new franchise agreement, to go into effect in August, 2015; and

WHEREAS, the Monterey Regional Waste Management District will soon upgrade its Materials Recovery Facility capabilities; and

WHEREAS, the last comprehensive amendment to the Municipal Code pertaining to solid waste/garbage were made in 1973; much has changed since then; and

WHEREAS, this ordinance is intended to reflect the ongoing changes in activities and the community's ethos; and

WHEREAS, this ordinance is exempt from CEQA, pursuant to California Environmental Quality Act (CEQA) Guidelines, as a Class 1 (Existing Facilities) and Class 8 (Regulated Activity) activity, per sections 15301 and 15308.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY
OF PACIFIC GROVE:**

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Chapter 9.16, *GARBAGE AND REFUSE DISPOSAL*, is hereby deleted from the Pacific Grove Municipal Code in its entirety.

SECTION 3. A new Chapter 9.16, *SOLID WASTE*, is hereby added to the Pacific Grove Municipal Code, as follows:

**Chapter 9.16
SOLID WASTE**

Sections:

- 9.16.010 Definitions.
- 9.16.020 Method of disposal.
- 9.16.030 Accumulating Solid Waste on Premises.
- 9.16.040 Containers.
- 9.16.050 Collection.

- 9.16.070 Collection service – rates and payment
- 9.16.120 Unenclosed burning – incinerators.
- 9.16.140 Enforcement – Right of entry, inspection, penalties for violation.

9.16.010 Definitions.

“Approved Processing and Disposal Facility” means the Monterey Regional Waste Management District facility and landfill at 14201 Del Monte Blvd, Marina, CA 93933, or another temporary or permanent facility by order of the city manager.

“Collect or Collection (or any variation thereof)” means the act of removing Solid Waste, recyclable materials, organic materials, construction and demolition debris, bulky items, and other discarded material by the city’s franchised hauler from the place of generation and transporting to an Approved Processing and Disposal Facility.

“Container(s)” means bins, carts, and drop boxes provided by the city’s franchised Solid Waste franchisee or other receptacles, including compactors, approved for Collection.

“Curb or Curbside (or any variation thereof)” means the location of a Collection Container for pick-up, where such Container is placed in public view on the street or alley against the face of the curb, or where no curb exists, the Container is placed not more than five feet from the outside edge of the street or alley nearest the entrance to the Premises.

“Premises” means a lot, parcel of land, building, or establishment.

“Solid Waste” means solid waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, §40191 and regulations promulgated thereunder.

When used throughout this chapter, defined terms are capitalized, for ease of reference.

9.16.020 Method of disposal.

(a) Solid Waste. It is unlawful for any person to place, deposit, or keep any Solid Waste on any Premises, except in Containers as hereinafter addressed. The burying or burning of Solid Waste is prohibited. It is prohibited for any person to deposit Solid Waste in any city sewer or plumbing fixture connected thereto, except through residential food scrap disposal units (commonly known as “garbage disposal units”).

(b) Public Property. It is unlawful for any person to place, deposit, scatter, or cause to be placed any rubbish, garbage, brush, trimmings, junk, disabled or discarded automobiles, or other Solid Waste materials upon any portion of the public streets, alleys, or other public property, other than in a manner approved for Collection, subject to PGMC 9.16.050.

(c) Public Solid Waste Receptacles. Public Solid Waste receptacles are for the occasional non-commercial use of the general public. It is unlawful for any person or business entity to place or deposit in or near any public Solid Waste receptacle an accumulation of Solid Waste, in lieu of regular Solid Waste Collection services.

9.16.030 Accumulating Solid Waste on Premises.

(a) It is unlawful for the owner or occupant of any Premises to allow the accumulation of any Solid Waste that is, or may become, a menace to health and sanitation, or a fire hazard. All Solid Waste accumulating at any Premises shall be kept in Containers intended for Collection as specified by the city manager, except that yard trimmings and other putrescible organic materials may be kept in a small pile as a properly managed compost heap, all of which shall be out of general public view and not become a nuisance.

(b) It is unlawful for any person, owner or occupant of any building, lot, or Premises in the city to suffer, allow, or permit any form of Solid Waste to collect or remain upon the lot or Premises beyond the time of the next scheduled Solid Waste Collection pick-up. Any such storage, Collection, or accumulation shall be deemed a nuisance and subject to summary abatement under Section 38773 of the Government Code. Such a nuisance shall be abated, and the city shall be reimbursed thereon on account, in accordance with the procedures set forth in PGMC 1.16.017.

9.16.040 Containers.

(a) Every person in possession, charge, or control of any Premises from which Solid Waste is produced shall retain, care for, and utilize one or more Containers with correct tight-fitting lids, and of sufficient capacity to hold any accumulation of Solid Waste generated between scheduled Collections. Containers shall be maintained in a sanitary and serviceable condition with lids closed. Containers shall not be overfilled such that they attract animals or create litter. Charges may be imposed and due to the city's Solid Waste franchisee as a result of improper use of Containers and/or overfilling.

(b) Containers shall be returned to the franchisee upon closure of the account, or retained at the site for the next occupant, at the discretion of the franchisee.

(c) Containers shall not be stored on any public right-of-way or property (unless they are serving that property) and shall be stored so as to be screened from public view.

(d) Every person allowing or causing a drop box or other large Solid Waste Container (as defined in Chapter 15.30.010) to be placed on any city street, roadway, or alley shall comply with the provisions of PGMC Chapter 15.40, *Refuse and Storage Containers on City Streets*.

(e) All commercial Containers and Containers at multi-family dwellings with three or more dwelling units must be housed in an enclosure with a concrete pad as specified in PGMC 23.24.070 for multi-family residential dwellings, and are subject to the approval of the Chief Building Official.

9.16.050 Collection.

(a) Required. The owner or occupant of each Premises within the city, or the owner of any other lot upon which Solid Waste may be produced or accumulated, shall obtain and maintain adequate Collection service from the city's Solid Waste Collection franchisee and shall be liable for and shall pay the full amount of any and all fees or charges imposed for such services. As used herein, the term "adequate Collection and disposal service" shall be determined by the city manager or designee. Each category of Solid Waste that contains putrescible organic material shall be collected no less than once per week, unless otherwise approved by the City Manager.

(b) Exceptions. This section shall not apply to the transport or disposal of Solid Waste when:

(1) Earth or construction wastes that are being collected and transported as an incidental service by the contractor, builder, or construction worker in charge of the project or his or her authorized employee; or

(2) A waiver has been granted by the city manager or designee, as a result of unique circumstances.

(c) Schedule. No Collection shall be commenced before the hour of 6:00 a.m. or after the hour of 6:00 p.m., Monday through Friday, except on order of the city manager or designee.

Containers for residential Solid Waste Collection shall be placed adjacent to the street on the day of Collection not earlier than 6:00 p.m. on the day prior to scheduled Collection. Containers for one Premises shall not be placed in the right-of-way on other Premises. All such Containers shall be removed from the Curb prior to 7:00 p.m. the day of Collection. Containers for commercial Collection shall be screened from public view, except on the day of pickup, and shall be returned to their stored location within two hours of pickup.

(d) Safe and accessible location. Containers for Solid Waste Collection shall be placed in such a manner as to be 1) safe and 2) accessible to Collection personnel.

(e) Scavenging. It shall be unlawful for any person, other than the city's authorized franchisee, to remove or take any items from public Solid Waste receptacles or from Containers that have been placed adjacent to the street or other location appropriate for Collection.

9.16.070 Collection service – rates and payment

(a) Establishing Rates. The charges and services to be provided for Solid Waste Collection and disposal shall be such as may be established from time to time by resolution of the city council.

(b) Liability for Payment. All delinquent accounts payable for the Solid Waste Collection shall be paid by the owner of the Premises if the tenant fails to do so. Such delinquent accounts shall constitute a debt due the city and/or the city's franchised hauler, for which the city may pursue administrative enforcement as set forth in Chapter 1.16 and 1.20 of this Code or sue the tenant or owner of such Premises in any competent civil court.

(c) Responsibility for Compliance. Responsibility for compliance with this Chapter shall rest solely on the owner or occupant of the Premises and shall not prevent the city's franchised hauler from temporarily suspending or terminating Solid Waste Collection services for delinquent accounts after notice has been given to the city.

9.16.120 Unenclosed burning – incinerators.

(a) It is unlawful to set, have, or maintain any fire in an unenclosed area or in an incinerator in any part of the city except as follows:

(b) Barbecue fires for cooking of food where the flames after kindling of the fire do not exceed six inches;

(c) Gas-fired double chamber incinerators may be maintained for commercial or industrial use when a permit is first obtained from the Monterey Bay Unified Air Pollution Control District.

When a fire necessitating extinguishment by the fire department results from a violation of any of the provisions of this section or chapter, the person responsible for the violation shall pay for the actual costs of extinguishment.

9.16.140 Enforcement – Right of entry, inspection, penalty for violation.

(a) To facilitate the enforcement of Solid Waste Collection, and to carry out the true understanding and purpose thereof, it is lawful for the fire chief or city manager, or their designee, or any peace officer of the city to enter any commercial, industrial, residential, or public premises, for the purpose of ascertaining the sanitary condition thereof, and the removal of unlawful or dangerous accumulation of Solid Waste and Containers therein or thereon, and the fire chief, city manager, or their designee, or any peace officer of the city are and each of them is required to enforce the provisions of this chapter, and any person denying or obstructing any such entry or inspection is guilty of a misdemeanor. Any interpretation of the terms of this chapter or dispute arising hereunder shall be decided by the city manager or designee.

(b) Violation of any of the provisions of this Chapter shall constitute an infraction or misdemeanor, and shall be punishable as set forth in Chapter 1.16 of the Pacific Grove Municipal Code.

(c) Notwithstanding any other legal remedy, violation of any of the provisions of this Chapter may be enforced pursuant to Chapter 1.19 of the Pacific Grove Municipal Code.

(d) Notwithstanding any other legal remedy, violation of any of the provisions of this Chapter shall constitute a public nuisance and shall be subject to abatement, injunction, or other civil remedy as appropriate.

SECTION 4. If any provision, section, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses, or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall take immediate effect thirty days following passage and adoption hereof.

SECTION 6. Section 3 of this ordinance shall cause republication of Chapter 9.16 of the Pacific Grove Municipal Code.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 4th day of March, 2015, by the following vote:

AYES: Mayor Kampe, Councilmembers Cuneo, Fischer, Huitt, Lucius, Miller, Peake

NOES: None.

ABSENT: None

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney