

**ORDINANCE NO. 864-C.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA TO ADD A NEW ARTICLE 6 “LITTER CONTAINERS FOR COMMERCIAL PROPERTIES” WITHIN CHAPTER 5 “GARBAGE, COLLECTION, AND RECYCLING” OF TITLE 6 “SANITATION AND HEALTH” OF THE PACIFICA MUNICIPAL CODE TO ESTABLISH LITTER CONTAINER REQUIREMENTS AT COMMERCIAL PROPERTIES**

**WHEREAS**, the City Council expressly finds and determines that addressing on-going litter challenges on private commercial properties in Pacifica as a City Council Priority; and

**WHEREAS**, littering found on private commercial properties is problematic for the City and it is the City Council’s desire to reduce the amount of litter and blight by managing waste in commercial areas in an effort to protect the City’s natural environment, all of which increase the quality of life for residents and visitors; and

**WHEREAS**, on April 12, 2021, the City Council adopted Goal and Priorities, which include environmental sustainability and maintaining a Safe Community; and

**WHEREAS**, establishing litter container regulations at commercial properties will require property owners to take specific actions to address litter challenges.

**NOW, THEREFORE**, the City Council of the City of Pacifica does ordain as follows:

**Section 1. Recitals.** The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

**Section 2. Added.** Article 6, “Litter Containers for Commercial Properties” is hereby added within Chapter 5, “Garbage, Collection, and Recycling” of Title 6, “Sanitation and Health” of the Pacifica Municipal Code as follows:

“Article 6. Litter Containers for Commercial Properties”

Sec. 6-5.601 Findings and Purpose.

The City Council finds and determines that:

- (a) Littering has become problematic in some high trafficked and visitor serving areas of the City and the impact of litter on the community and the natural environment are meaningful criteria to regulate litter at commercial properties and implement public policy to manage waste disposal.
- (b) The requirements of this Ordinance are intended to address this issue and prevent litter caused by restaurants and retail food vendors that sell prepared food for consumption on, near, or off its premises by the customers as these establishments generate high volumes of disposable food service ware items that are designed for one-time uses (i.e. to-go containers and disposable cups).
- (c) The requirements of this Ordinance shall apply to all Commercial Buildings and Commercial Retail Centers that include Food Vendors, including but not limited to, grocery stores, restaurants, markets, food retailers and any establishment that generates food waste food packaging material in addition to uses that have the potential to generate high volumes of disposable food service ware items that are

designed for one-time uses for food to be consumed on, near, or off its premises by the customers.

Sec. 6-5.602 -Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "3-Compartment Discard Waste Containers" means separation of organic waste, traditional recyclables, and items to be landfilled.
- (b) "Commercial Building" means a structure in which at least 50 percent (50%) of its floor space is used for commercial activities.
- (c) "Commercial Retail Centers" property that contains more than one commercial building or property with one commercial building that has more than one unit that are leased for commercial purposes. "Commercial Retail Centers" shall include strip malls, shopping centers, business parks.
- (d) "Food Vendor" means any and all sales outlets, stores, shops, vehicles or other places of business located within the City of Pacifica which operate primarily to sell or convey foods or beverages directly to the ultimate consumer. "Food Vendor" shall include both restaurants and retail food vendors.
- (e) "Litter" shall mean garbage and rubbish, as defined in PMC section 6-5.102, and all other materials which, if thrown, deposited, or allowed to accumulate tend to create a danger to the public health, safety, and welfare and which materials are not within a receptacle provided therefor.
- (f) "Litter Container" a receptacle for depositing Litter, which is of at least 32 gallons and contains a lid or closure of some type which prevents the deposited Litter from being removed.
- (g) "Outdoor Eating Area" an outdoor space reserved on a property for the consumption of prepared food sold or provided by a Retail Food Vendor.
- (h) "Owner" means the owner or owners of real property having fee title to the property as identified in the most recent equalized assessment roll of the San Mateo County Assessor.
- (i) "Prepared Food" means food or beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the food vendor's premises within the City of Pacifica. Prepared food may be eaten either on or off the premises. Prepared food does not include raw food such as eggs or meat.
- (j) "Recycling" means the process of sorting, cleansing, treating and reconstituting waste or other discarded materials for the purpose of using the altered form. "Recycling" does not include merely sorting, shredding, stripping, compressing, storing, land filling with, or otherwise disposing of waste or other discarded materials.
- (k) "Retail Food Vendor" means any establishment other than a restaurant, located within the city where prepared food is sold for consumption on, near or off its

premises to customers. For purposes of this article the term includes a delicatessen or cafe.

(l) "Tenant" means any person or persons other than the owner occupying or in possession of the commercial space.

Sec. 6-5.603. Litter Containers Required.

All Owners of Commercial Buildings and Commercial Retail Centers wherein a Food Vendor is operating shall locate and maintain Litter Container(s) outside of Commercial Buildings and Commercial Retail Centers in the manner provided in this article.

Sec. 6-5.604. Location of Litter Container(s).

(a) Outside of a Commercial Building, within 10 feet of any public entrance and exit where the Food Vendor is operating; and

(b) In a Commercial Retail Center, at intervals of 300- 350 feet along the pedestrian walkways; and

(c) Litter Container(s) shall not be located in a manner that impedes pedestrian accessibility to the Commercial Building or along the pedestrian walkways within the Commercial Retail Center.

(d) Litter Container(s) may be placed near Recycling containers or included in a 3-Compartment Discard Waste Container.

(e) Litter Container(s) shall be located in such a manner that is readily accessible for removing and emptying the container in accordance with the provisions of an agreement between the property owner and the scavenger, as that term is defined in section 6-5.102, if an agreement exists.

Sec. 6-5.605. Construction and Maintenance of Litter Container(s):

(a) Any Litter Container required by this article shall be constructed of durable, high quality materials, such as galvanized or stainless steel.

(b) Litter Container(s) shall be emptied a minimum of once a week or more frequently as use dictates to prevent overflow and unsanitary conditions; and

(c) Litter Container(s) should be kept in good condition, clean and free of graffiti.

Sec. 6-5.606. Properties That Involve Outdoor Eating Areas.

Where a Commercial Building or a Commercial Retail Center includes an Outdoor Eating Area, the following requirements shall apply to that Outdoor Eating Area:

(a) A 3-Compartment Discard Waste Container shall be placed in a central and visible location near the Outdoor Eating Area;

(b) A 3-Compartment Discard Waste Container shall be labeled with clear signage describing organics, recycling and litter;

(c) 3-Compartment Discard Waste Container shall be emptied a minimum of once a week or more frequently as use dictates to prevent overflow and unsanitary conditions;

- (d) A 3-Compartment Discard Waste Container shall be kept in good condition, clean and free of graffiti.

Sec. 6-5.607. - Enforcement.

The City Manager or his/her designee will have primary responsibility for enforcement of this article. The City Manager or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this article.

Sec. 6-5.608. - Violations and penalties.

- (a) Causing, permitting, aiding, abetting or concealing a violation of any provision of this article shall constitute a violation of this article.  
(b) Any violation of this article shall constitute an infraction.  
(c) Violations of this article are subject to the remedies and penalties set forth in Title 1, Chapter 2 of this Code.  
(d) Violations of this article shall also be punishable in accordance with Title 1, Chapter 6 of this Code.”

**Section 3. Severability.** If any section, subsection, sentence, clause or phase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this 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, subsections, sentence, clauses or phrases be declared unconstitutional.

**Section 6. Publication.** The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

**Section 7. Effective Date.** This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City’s local coastal program pursuant to Section 30514 of the Public Resources Code.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of June, 2021 by the following vote:

**AYES**, Councilmembers: Beckmeyer, Bier, Bigstyc, O’Neill, Vaterlaus.

**NOES**, Councilmembers: n/a.

**ABSENT**, Councilmembers: n/a.

**ABSTAIN**, Councilmembers: n/a.



Sue Beckmeyer, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney









# For Signature -- OrdinanceNo864-CS\_Shopping CenterTrashCanCodeAmendments\_FINAL-Approved

Final Audit Report

2021-07-19

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## "For Signature -- OrdinanceNo864-CS\_ShoppingCenterTrashCa nCodeAmendments\_FINAL-Approved" History

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