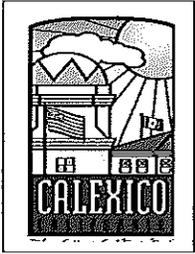


AGENDA  
ITEM

**10**



# AGENDA STAFF REPORT

**DATE:** February 5, 2020

**TO:** Mayor and City Council

**APPROVED BY:** David B. Dale, City Manager *DALE for D.D.*

**PREPARED BY:** Carlos Campos, City Attorney

**SUBJECT:** Second Reading and Adoption of Ordinance No. 1207 – An Ordinance Amending Calexico Municipal Code Chapter 8.36 Regarding Garbage Disposal

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**Recommendation:**

Conduct second reading and adopt Ordinance No. 1207 - An Ordinance of the City Council of the City of Calexico, California, amending Calexico Municipal Code Chapter 8.36 Garbage Disposal.

**Background:**

Calexico Municipal Code Chapter 8.36 *Garbage Disposal* establishes regulations for the collection and disposal of solid waste within the City of Calexico ("City").

Recently, there has been an increase in litter, debris, and refuse accumulating in the City's downtown area, which is creating an unclean, fire-prone, and malodorous condition. Existing garbage containers are constantly being overfilled, resulting in excess garbage flowing onto streets, sidewalks, and alleyways. In addition, business owners and tenants are not keeping their garbage containers locked and persons are rifling through them for food, recyclable materials, and other such items, leaving garbage all over downtown streets and sidewalks.

Although the City's current regulations prohibit these conditions, accumulation of litter, debris, and refuse in the downtown area continues. As a result, the City is proposing amendments to Municipal Code Chapter 8.36 *Garbage Disposal* to prevent such accumulation.

<p><b>AGENDA ITEM</b></p> <p><i>10</i></p>
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## Discussion & Analysis:

The City's proposed amendments to Municipal Code Chapter 8.36 *Garbage Disposal* include the following new definition:

- **"Downtown collection area"** means that area of the City that is bounded on the north by State Highway 98/Birch Street from Harold Avenue to Paulin Avenue, and by 5th Street from Paulin Avenue to Mary Avenue; on the west by Mary Avenue from 5th Street to the International Border with Mexico; on the south by the International Border with Mexico from Mary Avenue to State Highway 111; and on the east by State Highway 111 and Harold Avenue from the International Border with Mexico to State Highway 98/Birch Street.

In addition, the proposed ordinance outlines certain requirements that must be met in the downtown collection area, including:

- **Locked Containers:** All containers designed or intended to be mechanically dumped into a loader packer truck that is approved for collection services shall be equipped with locks and shall remain locked at all times, except when refuse or recyclables are being deposited or collected in accordance with the provisions of this chapter.
- **Identifying Information on all Containers:** All containers shall have the name of the owner, and of the tenant, if different than the owner, written on the front of the container with either paint or some form of indelible ink.
- **Containers May Not Block Passage:** No container shall be placed or located in such a manner that blocks or impedes passage on any street, alley, or sidewalk in the downtown collection area or blocks passage to a building even if the building is abandoned or out of use.
- **Shared Containers Prohibited:** No container shall be shared between businesses in the downtown collection area; each business must utilize its own container.
- **Overflow Prohibited/ Additional Collection Required:** No container shall be permitted to overflow. In the event that a business's container is overfilled and trash is encroaching onto any street, alley, or sidewalk, whether in the public right-of-way or on private property, the business owner must immediately contact the franchisee and arrange for an increased level of service.

Lastly, the proposed ordinance amendments include a new penalties section—such that violations of Chapter 8.36 *Garbage Disposal* may be punishable by criminal action, civil action, and/or administrative penalties. Violations are considered public nuisances and each day a violation continues is a separate offense.

City Council unanimously approved the first reading by title only of the ordinance at their meeting of January 22, 2020.

**Fiscal Impact:**

None.

**Attachment(s):**

1. Ordinance No. 1207: An Ordinance Of the City Council of the City of Calexico, California, Amending Chapter 8.36 Regarding Garbage Disposal.

## ORDINANCE NO. 1207

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING CHAPTER 8.36 REGARDING GARBAGE DISPOSAL

**WHEREAS**, the City Council of the City of Calexico, California (“City Council”), has previously established the Calexico Municipal Code (“Municipal Code”) to ensure the health, safety, and welfare of its citizens; and,

**WHEREAS**, Municipal Code Chapter 8.36 *Garbage Disposal* establishes regulations for the collection and disposal of solid waste within the City of Calexico (“City”); and,

**WHEREAS**, excessive litter, debris, and refuse consistently accumulate in the alleys where collection services are rendered in the downtown collection area; and,

**WHEREAS**, the excessive accumulation of litter, debris, and refuse in the downtown collection area alleys adversely affects the health, safety, and welfare of the downtown area by creating an unclean, fire-prone, and malodorous condition; and,

**WHEREAS**, this unclean, fire-prone, and malodorous condition is caused, in part, when persons who do not subscribe to collection services in accordance with the provisions of Municipal Code Chapter 8.36 *Garbage Disposal*, deposit excessive amounts of refuse in the containers located in the downtown collection area alleys, or business owners and/or employees fail to keep containers locked, or when refuse is removed from the containers and deposited in the alleys by persons looking for food, recyclable materials, or other such items; and,

**WHEREAS**, although the activities described in the preceding paragraph are prohibited, the excessive accumulation of litter, debris, and refuse in the downtown collection area alleys continues, so that additional methods of preventing such accumulation are needed; and,

**WHEREAS**, establishing special requirements to prevent the excessive accumulation of litter, debris, and refuse in the downtown collection area alleys will more effectively protect and maintain the health, safety, and welfare of the downtown area; and,

**WHEREAS**, the purpose of this Ordinance is to protect and maintain the public health, safety, and welfare by establishing additional special requirements for refuse collection services rendered in the downtown collection area; and,

**WHEREAS**, the City Council finds it necessary to amend Municipal Code Chapter 8.36 *Garbage Disposal* regarding the collection of solid waste from businesses in the City’s downtown corridor.

NOW, THEREFORE, IT SHALL BE ORDAINED by the City Council of the City of Calexico, California, as follows:

**SECTION 1. Recitals.** The City Council of the City of Calexico, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

**SECTION 2. Amendment to Municipal Code.** Calexico Municipal Code Section 8.36.010 *Definitions* of Chapter 8.36 *Garbage Disposal* is hereby amended with additions underlined as follows:

**“8.36.010 Definitions.**

As used in this chapter, the following terms shall have the meanings set forth below:

“Collection” means the operation of gathering together garbage, rubbish, and refuse, and transporting the same to an approved point of disposal.

“Downtown collection area” means that area of the City that is bounded on the north by State Highway 98/Birch Street from Harold Avenue to Paulin Avenue, and by 5th Street from Paulin Avenue to Mary Avenue; on the west by Mary Avenue from 5th Street to the International Border with Mexico; on the south by the International Border with Mexico from Mary Avenue to State Highway 111; and on the east by State Highway 111 and Harold Avenue from the International Border with Mexico to State Highway 98/Birch Street.

“Franchisee” means a person who holds a valid, unrevoked and unexpired franchise agreement to collect or transport garbage or rubbish pursuant to this chapter.

“Garbage” means all animal and vegetable refuse from kitchens, commercial establishments and all household waste that has resulted from the preparation of food, also every accumulation of animal, vegetable and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables (save and except that dead animals and offal of slaughterhouses are not included within this meaning).

“Person” means an individual, group of individuals, and/or any legal entity recognized by the laws of the state.

“Rubbish” means all refuse other than garbage; and such term shall include, but not be limited to, paper, rags, leaves, grass, vines, sawdust, sweepings, plaster, bricks, cement, glass, crockery, shells, metals, petroleum products, metal products, cans, ashes, and tree and shrubbery trimmings.”

**SECTION 3. Amendment to Municipal Code.** Calexico Municipal Code Section 8.36.135 *Downtown collection area requirements* of Chapter 8.36 *Garbage Disposal* is hereby added as follows:

**“8.36.135 Downtown collection area requirements.**

A. In addition to any and all requirements for collection services under this chapter, the owners and tenants of properties in the downtown collection area are required to comply with all of the requirements in this section.

B. All containers designed or intended to be mechanically dumped into a loader packer truck that is approved for collection services shall be equipped with locks and shall remain locked at all times, except when refuse or recyclables are being deposited or collected in accordance with the provisions of this chapter.

C. All containers shall have the name of the owner, and of the tenant, if different than the owner, written on the front of the container with either paint or some form of indelible ink.

D. No container shall be placed or located in such a manner that blocks or impedes passage on any street, alley, or sidewalk in the downtown collection area or blocks passage to a building even if the building is abandoned or out of use.

E. No container shall be shared between businesses in the downtown collection area; each business must utilize its own container.

F. No container shall be permitted to overflow. In the event that a business’s container is overfilled and trash is encroaching onto any street, alley, or sidewalk, whether in the public right-of-way or on private property, the business owner must immediately contact the franchisee and arrange for an increased level of service.”

**SECTION 4. Amendment to Municipal Code.** Calexico Municipal Code Section 8.36.140 *Violation of rules* of Chapter 8.36 *Garbage Disposal* is hereby amended with additions underlined and deletions stricken as follows:

**“8.36.140 Violation of ~~rules and~~ penalties.**

A. It is unlawful for any person, firm or corporation to violate or attempt to evade any of the rules or regulations duly prescribed by the city council, pursuant to the authority granted to the council by this chapter.

B. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties. Violations of this chapter constitute a misdemeanor and may be enforced by any applicable law. Violations of this chapter are hereby declared to be public nuisances. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.”

**SECTION 5. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption.

**SECTION 6. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

**SECTION 7. Certification and Publication.** The City Clerk of the City of Calexico shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

**SECTION 8. CEQA.** The City Council finds that adoption of this Ordinance is not a “project,” as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Calexico, California on the 5<sup>th</sup> day of February, 2020, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
BILL HODGE, MAYOR

ATTEST:

\_\_\_\_\_  
GABRIELA T. GARCIA, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CARLOS CAMPOS, CITY ATTORNEY

State of California     )  
County of Imperial    ) s.s.  
City of Calexico       )

I, Gabriela T. Garcia, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. 1207, introduced at a special meeting held on the 22<sup>rd</sup> day of January 2020, and duly adopted by the City Council of the City of Calexico, California at a regular meeting thereof held the 5<sup>th</sup> day of February, 2020.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

GABRIELA T. GARCIA, CITY CLERK