

OCEANO COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 99-1

ORDINANCE OF THE BOARD OF DIRECTORS OF
THE OCEANO COMMUNITY SERVICES DISTRICT
ESTABLISHING RULES AND REGULATIONS FOR THE
COLLECTION AND DISPOSAL OF SOLID WASTE AND RUBBLE

WHEREAS, the District has been provided with public testimony during numerous public hearings regarding the collection and disposal of garbage or refuse matter that:

A. The residents of District desire local control regarding the nature, extent, and cost of garbage collection; and

B. The District can provide garbage collection service to its residents at a greater advantage than other public agencies;

WHEREAS, on or about October 15, 1998, the Local Agency Formation Commission approved the Oceano Community Services District's request to provide its residents with the collection and disposal of garbage and refuse matter pursuant to Government Code Section 61600(c); and

WHEREAS, the fees and charges for the collection and disposal of solid waste shall be established pursuant to the procedures set forth in Article XIIID, § 6(a) of the California Constitution.

WHEREAS, based upon facts and analysis presented by Staff, the Staff Report, and public testimony received, the Board of Directors finds:

A. That the meeting adopting this Ordinance had been properly noticed pursuant to Government Code Section 54954.2 (The Brown Act);

B. Periodic collection and disposal of solid waste from all developed properties in the District benefits all occupants of developed properties within the District; and

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE DISTRICT AS FOLLOWS:

SECTION 1: AUTHORITY

This Ordinance is enacted pursuant to Government Code Section 61600(c) and 61621, and Public Resources Code Section 40059.

SECTION 2: PURPOSE

The health, welfare, and safety of the people of the District require that regulations and procedures be established that will provide for the storage, collection and disposal of solid waste and rubble that accumulates within the District. To assure the existence and continuance of a collection and disposal system that will benefit all citizens of the District, it is necessary that regulations and procedures be established as set forth in the Ordinance.

SECTION 3: SOLID WASTE COLLECTION AND CONTROL

Part 6 is hereby added to the Oceano Community Services District's Code as follows:

PART 6 SOLID WASTE COLLECTION AND CONTROL

ARTICLE 1 Definitions

§1-1 Introduction: Unless the context otherwise requires, the definitions set forth in this part shall govern the interpretation of provisions of this part.

§1.2 Cast offs: "Cast offs" means discarded mattresses, couches, chairs, and other household furniture, but does not include rubble or solid waste.

§1-3 District: "District" means the Oceano Community Services District.

§1-4 Developed property: "Developed property" means any lot or parcel of land that is connected to the District water system or is served by a private well.

§1-5 Franchisee: "Franchisee" means and includes a person or any other entity authorized under and by virtue of a contract with the District to collect solid wastes.

§1-6 Garbage: "Garbage" means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. It shall also include crockery, bottles, tin vessels, fireplace ashes and all or any refuse, save and excepting as defined in this section as green waste, rubble, cast offs, and recyclables.

§1-7 Green Waste: "Green waste" means and includes all tree trimmings, grass cuttings, dead plants and weeds, but shall not include rubble.

§1-8 Hazardous materials: "Hazardous materials" means any material defined as hazardous in the California Health and Safety Code, as may be amended from time to time; a waste that is hazardous according to the

criteria set forth in the California Code of Regulations, as may be amended from time to time, or any waste that must be disposed of in a hazardous waste landfill.

§1-9 Person: "Person" means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust organization, or any other type of legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them who is in possession of a commercial or residential property.

§1-10 Recyclables or recyclable materials: "Recyclables" or "recyclable materials" means, but is not limited to, any paper, glass, cardboard, plastic, ferrous metal, aluminum, or other material that is to be segregated for collection for reuse in the market place.

§1-11 Refuse: "Refuse" includes garbage, recyclables, green waste, cast offs, and/or rubble.

§1-12 Rubble: "Rubble" means and includes all debris from the construction, demolition or alteration of buildings, earth, rocks or incinerator ashes, brick, mortar, concrete and similar solid material.

§1-13 Solid waste: "Solid waste" means and includes all waste substances including garbage, green waste, and recyclables, but does not include cast offs or rubble.

§1-14 Standard container: "Standard container" means and includes residential and commercial containers made of metal or plastic for holding/containing solid waste in a sufficient strength to prevent them from being broken under ordinary conditions. The size and capacity of standard containers are established by the Collection Rate and Charge Ordinance enacted pursuant to Article 3, Section 4 of this Part. Standard containers include garbage containers, green waste containers, and recyclable containers.

ARTICLE 2

Solid Waste Collection and Control Department

§2-1 Creation: A solid waste collection and control department is hereby created for the collection and disposal of refuse within the District.

§2-2 Operations Supervisor: The General Manager or his/her designee shall be the Operations Supervisor of the District's Solid Waste Collection and Control Department.

§2-3 Duties of Operations Supervisor: The Operations Supervisor shall administer and oversee compliance with the provisions of this Part.

ARTICLE 3

Mandatory Garbage Service and Rates and Charges

§3-1 The periodic collection and disposal of solid waste from all developed properties with the District is mandatory.

§3-2 The District will provide solid waste collection and disposal service through its Franchisee; and all developed properties within the District shall use the District's solid waste collection and disposal service, except that there may be joint or multiple use of solid waste containers, subject to conditions established by the District.

§3-3 All solid wastes of any kind shall be removed by District, its agents, employees, or Franchisees or representatives, at least every seven days, unless otherwise directed by the District's Operations Supervisor.

§3-4 Collection rates, fees and charges for solid waste collection and disposal shall be established pursuant to Article XIIIID, §6(a) of the California Constitution, and are stated in Appendix A to this part.

§3-5 The owner of developed property shall be responsible and liable for paying the solid waste collection, rates and charges for that property. At the owner's request, a duplicate bill and delinquency notices will be mailed to the service address by the District or its Franchisee.

ARTICLE 4

Franchise for Collection - Authorization

§4-1 A franchise, exclusive or nonexclusive, for the collection and disposal of solid waste may be granted by the District.

§4-2 No person shall collect, or enter into an agreement to collect, or provide for the collection or disposal of solid waste, unless such person is authorized by the District to operate within the District by means of a franchise agreement.

ARTICLE 5

Collection of Delinquent Fees and Charges

§5-1 Once each year, prior to a date established by the District, the Franchisee shall take the following actions to collect delinquent solid waste collection and disposal accounts:

(a) Present to the District a list of property owners (with corresponding parcel numbers) within the District whose accounts are more than one hundred twenty days past due;

(b) Send a certified letter requesting payment to each property owner with a delinquent account;

(c) At least thirty days after receiving delivery certification for payment requests, present to the District a list of property owners (with corresponding parcel numbers) whose accounts are still past due.

§5-2 After the Franchisee has completed all of the actions listed in paragraph **§5-1**, the District Board of Directors will adopt a resolution authorizing the County Auditor to place the delinquent accounts upon the tax roll. The Franchisee shall bear the full cost of any fees charged by the County Auditor to place the delinquent accounts on the tax roll.

ARTICLE 6

Regulations for Accumulation of Solid Waste, Rubble, and Refuse

§6-1 No person shall allow the following to be accumulated on developed property:

- (a) Solid waste, unless the same shall be in a standard container;
- (b) Rubble; and/or
- (c) Cast offs.

§6-2 No person shall allow the following to be accumulated on undeveloped (vacant) property:

- (a) Solid waste;
- (b) Rubble; or
- (c) Cast offs.

§6-3 No person shall dispose of solid waste originating on such person's property by:

- (a) Causing the same to be placed on another person's lot or parcel;
- (b) Causing the same to be deposited in or near litter receptacles placed by the District in public places for incidental use by pedestrians or vehicular traffic;
- (c) Causing the same to be deposited on any public or private place, street, lane, alley, or drive, unless the same shall be in a standard container;
- (d) Causing the same to be placed into any standard container other than those in possession of such person, unless permission for such use is granted by the commercial or residential customer in possession of the standard container.

§6-4 No person shall dispose of rubble or cast offs originating on such person's property by:

- (a) Causing the same to be placed on another person's lot or parcel;
- (b) Causing the same to be deposited in or near litter receptacles placed by the District in public places for incidental use by pedestrians or vehicular traffic;
- (c) Causing the same to be deposited on any public or private place, street, lane, alley, or drive, unless the same shall be in a standard container.

§6-5 The owner of developed or non-developed (vacant) lot or parcel of land shall be liable for paying the costs, including administrative costs and attorneys' fees for the removal of solid waste, refuse, and rubble that accumulates on his/her property in violation of this Article, if said waste is not removed after notice, as provided in Article 7.

ARTICLE 7

Clearing of Accumulated Solid Waste and Rubble

§7-1 The accumulation of solid waste, refuse, and/or rubble in violation of Article 6 is hereby declared to be a public nuisance.

§7-2 The District's Operations Supervisor is authorized and empowered to notify the owner, his or her agent, or person in control of any lot or parcel within the District, and direct them to dispose of solid waste, refuse, and/or rubble that has accumulated in violation of Articles 6. Such notice shall be given by posting the lot or parcel and by certified mail addressed to the owner, his or her agent, at his or her last known address, or by personal service on the owner, agent, person in control or occupant of the property.

§7-3 The notice shall describe the work to be done and shall state that if the work is not commenced within ten calendar days after receipt of notice and diligently prosecuted to completion without interruption, the District Operations Supervisor shall notify the County Environmental Health Department to commence abatement proceedings. Cost of said abatement, including administrative costs and attorneys' fees, shall be a lien on the property. The notice shall be substantially in the following form:

NOTICE TO REMOVE SOLID WASTE REFUSE, CAST OFFS, AND/OR RUBBLE

The owner of the property commonly known as: _____ is hereby ordered to properly dispose of the solid waste matter, refuse, cast offs, and/or rubble located on the property, to wit: (type of waste matter to be disposed of) _____

_____ within ten calendar days from the date hereof. If the disposal of the solid waste matter, cast-offs, and/or rubble herein described is not commenced and diligently prosecuted to completion within the time fixed herein, the District Operations Supervisor will apply to the County of San Luis Obispo Environmental Health Department for an order to abate said nuisance, and the costs of such abatement shall become a charge against the property, and shall be made a special assessment against the property. Said special assessment may be collected at the same time and in the same manner as is provided for the collection of ordinary County taxes, and shall be subject to the same procedures as foreclosure and sale in the case of delinquency as is provided for ordinary County taxes.

If you should have any questions please contact the undersigned at (805) 481-6730.

Date: _____

District Operations Supervisor

cc: San Luis Obispo County Environmental
Health Department

§7-4 The District Operations Supervisor shall cause to be kept in his/her office a permanent record containing:
(a) a description of each parcel of property for which notice to dispose of waste matter has been given;
(b) the name of the owner, if known;
(c) the date the matter was referred to the San Luis Obispo County Department of Environmental Health;
(d) action taken by the County Department of Environmental Health.

Each such entry shall be made as soon as practicable after completion of such act.

§7-5 The County of San Luis Obispo Environmental Health Department is hereby authorized to enforce all abatement proceedings authorized by this Article.

ARTICLE 8

Storage and Placement of Standard Containers for Pick-up

§8-1 All residential standard containers shall be placed for collection along the street in front of the premises or the rear alley, when applicable, only on the date established for the collection of solid waste on the particular route, or after 5:30 P.M. on the day immediately prior to such collection, and shall not remain thereon for more than twelve (12) hours after it has been emptied unless special in yard service has been contracted for.

§8-2 Any container placed for collection along a street or roadway shall be placed within three feet of the edge of the street or roadway, without causing a safety hazard. In the event that automated service is provided in the District, containers shall be placed in accordance with guidelines established by the Franchisee and approved by the District.

§8-3 Upon collection, the Franchisee shall place all standard containers approximately 3 feet from the edge of the street or roadway, to avoid creating a safety hazard.

ARTICLE 9

Interference With Solid Waste

No person other than a Franchisee or customer shall interfere in any manner with any solid waste standard container or the contents thereof, or remove any such solid waste standard container from the location where it was placed by the customer or Franchisee, nor remove the contents of any solid waste standard container.

ARTICLE 10

Condition of Collection Trucks

Every truck used by a Franchisee in the collection and removal of solid waste shall be kept well painted, clean, and in good operating condition.

ARTICLE 11

Exceptions

§11-1 Nothing in this Ordinance shall be deemed to prohibit the removal and hauling by a licensed person of materials considered by the Operations Supervisor to constitute a health menace of such nature as necessary to be ordered to be promptly removed.

§11-2 Nothing in this Ordinance shall be construed to prohibit any producer of solid waste, cast offs, rubble, or refuse from hauling the same to a permitted disposal site.

§11-3 Nothing in this Ordinance shall be construed to prohibit the collection and removal of grass clippings and shrubbery by individual residents and by individuals doing business as professional landscapers, when the collection is directly related to their work.

ARTICLE 12
Unlawful Collection

§12-1 A Franchisee shall not be required to collect hazardous or dangerous materials as part of its regular collection activity. Liquid and dry caustics, acids, biohazardous, flammable, explosive materials, insecticides, and similar substances shall not be deposited in standard containers described in Article 1. Any person collecting such substances shall store, handle and dispose of such materials in accordance with local, state and federal law and shall obtain all necessary local, state and federal permits therefor.

§12-2 A Franchisee shall not be required to collect infectious waste (as defined in California Health and Safety Code Section 7054.4, as amended from time to time, or any successor provision or provisions thereto) as part of its regular collection activity. Anyone producing such wastes shall store, handle and dispose of such materials only in the manner approved by the County health officer or designated deputy, and in accordance with local, state and federal law and with all necessary local, state and federal permits.

ARTICLE 13
Ownership of Recyclable Materials

Solid waste shall become the property of the Franchisee upon placement at curbside.

ARTICLE 14
Violation of Misdemeanor

§14-1 Any person violating any provisions of this Part shall be guilty of a misdemeanor and subject to the provisions set forth in Part 1, § 2-41 of the District Code as amended from time to time.

ARTICLE 15
Right of Individual to Dispose of Recyclable Waste Material

§15-1 Nothing in this Ordinance shall limit the right of an individual person, organization or other entity to donate, sell or otherwise dispose of recyclable material, provided that any such disposal is in accordance with the provisions of this Ordinance.

SECTION 4:

Section 2-41 of Part 1 of the District Code is hereby repealed in its entirety and replaced with the following:

1.02.010 Violations - Misdemeanors and infractions.

A. It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this code. A violation of any of the provisions or a failure to comply with any of the requirements shall constitute a misdemeanor except for those specifically declared by this code to be an infraction. Notwithstanding any other provisions of this code, any misdemeanor violation or failure to comply may, in the discretion of the District Legal Counsel, be initially charged or subsequently prosecuted as an infraction. Each and every infraction violation is punishable by a fine not exceeding one hundred dollars for a first violation; a fine not exceeding two hundred dollars for a second violation of the same article within one year; and a fine not exceeding five hundred dollars for a third violation of the same article within one year. Each and every misdemeanor violation is punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

B. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provisions of this code is committed, continued, or permitted by such person and shall be punishable accordingly.

SECTION 5:

The District's Administrative Policies and Procedures is hereby renamed The Oceano Community Services District Code.

SECTION 6: INCONSISTENCY

To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District ordinance(s), motion, resolution, rule, or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 7: SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The Board hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared invalid or unconstitutional.

SECTION 8: EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect on the first date of the regular bi-monthly billing period ending May 31, 1999, which is more than thirty (30) days after its passage; and before the expiration of fifteen (15) days after passage of this Ordinance, it shall be published once with the names of the members of the Board of Directors voting for and against the Ordinance in the Five Cities Times Press Recorder.

SECTION 9: EFFECTIVE DATE OF SECTION 3

Section 3 of this Ordinance Establishing Mandatory Garbage Collection shall be implemented, by Resolution of the Oceano Community Services Board of Directors, after the effective date of this Ordinance as established by Section 8, above.

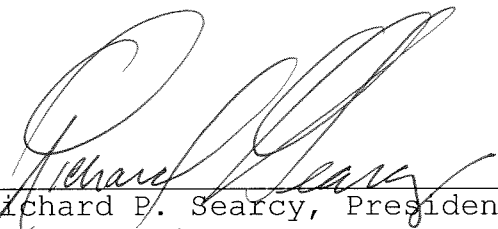
Introduced at a regular meeting of the Board of Directors held on January 27, 1999, and passed and adopted by the Board of Directors of the Oceano Community Services District on the 24th day of March 1999, by the following roll call vote, to wit:

AYES: President Searcy, Vice President Gallardo,
Director Angello, Director Mann,
Director Darneal


NOES: (None)

ABSENT: (None)

ABSTAINING: (None)


Richard P. Searcy, President
Board of Directors, Oceano
Community Services District

ATTEST:


Francis M. Cooney
Deputy Secretary to the Board

APPROVED AS TO FORM:


JON S. SEITZ
District Legal Counsel

TCSD Proposed Rates

Residential: Includes a WW for garbage, a WW for greenwaste, orange bin curbside recycling. Commercial: one 96 gallon WW (Green Waste) and orange bin on request. NB: WW = Waste Wheeler

Residential		Oceano Current	Oceano Proposed	Factor
1 Can		9.15	8.70	0.95
2 Can		12.75	12.50	0.98
3 Can		16.30	24.45	1.50
4 Can		16.50	28.88	1.75
Commercial Pickups/Week				
1 yard	1	42.50	42.50	1.00
1 yard	2	61.15	61.15	1.00
1 yard	3	80.80	80.80	1.00
1 yard	4	99.45	99.45	1.00
1 yard	5	120.15	120.15	1.00
1 yard	6	139.85	139.85	1.00
1.5 yard	1	50.75	50.75	1.00
1.5 yard	2	77.65	77.65	1.00
1.5 yard	3	104.65	104.65	1.00
1.5 yard	4	146.05	146.05	1.00
1.5 yard	5	178.15	178.15	1.00
1.5 yard	6	212.35	212.35	1.00
2 yard	1	54.90	54.90	1.00
2 yard	2	90.10	90.10	1.00
2 yard	3	128.40	128.40	1.00
2 yard	4	187.50	187.50	1.00
2 yard	5	230.00	230.00	1.00
2 yard	6	274.50	274.50	1.00
3 yard	1	66.25	66.25	1.00
3 yard	2	122.20	122.20	1.00
3 yard	3	170.90	170.90	1.00
3 yard	4	320.10	320.10	1.00
3 yard	5	396.70	396.70	1.00
3 yard	6	422.60	422.60	1.00
4 Yard	1	94.25	94.25	1.00
4 Yard	2	141.95	141.95	1.00
4 Yard	3	204.05	204.05	1.00
4 Yard	4	304.50	304.50	1.00
4 Yard	5	361.50	361.50	1.00
4 Yard	6	450.60	450.60	1.00
1 can	1	12.25	12.25	1.00
2 cans	1	20.50	20.50	1.00
3 cans	1	24.65	24.65	1.00
4 cans	1	30.05	30.05	1.00
96 Gal WW	1	26.95	26.95	1.00

Contract includes: Waste Oil pickup, twice yearly cleanup days (residential only - restrictions apply), 10 year contract term, 10% franchisee fee included in rate structure, 8% IRR

Exhibit "A"