

ORIGINAL



**ORDINANCE NO. 02-2020**

**AN ORDINANCE OF THE SAN MIGUEL COMMUNITY SERVICES DISTRICT  
ADOPTING THE SAN MIGUEL COMMUNITY SERVICES DISTRICT  
SOLID WASTE AND RECYCLING REGULATIONS**

**WHEREAS**, Government Code sections 61060 and 61100 authorize the San Miguel Community Services District (“District”) to adopt by ordinance and enforce rules and regulations for the administration, operation, and use and maintenance of the District’s solid waste and recycling system; and

**WHEREAS**, the District seeks to establish a clear policy to address all activities related to the operation of the District’s solid waste and recycling system; and

**WHEREAS**, the District has drafted the San Miguel Community Services District Solid Waste and Recycling Regulations (“District solid waste Code”) to address the District’s policies and procedures associated with: (1) will serve letters; (2) temporary construction activities; (3) the fees and charges related to the District’s Solid Waste and Recycling system; and (4) provisions to enforce the District’s Solid Waste code; and

**WHEREAS**, Government Code section 61064 provides that the District Board of Directors may designated District employees with the power to enforce District policies; and

**WHEREAS**, the District Board of Directors seeks to authorize the General Manager, Director of Utilities, Fire Chief, and Assistant Fire Chief with the authority to enforce the provisions of the District Solid waste Code.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SAN MIGUEL COMMUNITY SERVICES DISTRICT DOES ORDAIN AS FOLLOWS:**

**SECTION 1: Purpose and Authority.**

The District, in making adequate provision in this ordinance for the handling of solid waste, organics and recycling, is doing so as a subdivision of the State and after being authorized to do so as a part of the State's comprehensive program for solid waste management and resource recovery and for the preservation, health, safety, and well-being of the public. The following provisions regarding solid waste handling, and the actions of the District pursuant to those provisions, are intended to implement State policy and to provide for the District's continuing authorized evaluation, planning, and supervision in the area.

**SECTION 2: DEFINITIONS.**

For purposes of this ordinance, the following words and phrases shall mean as follows:

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"Board of Directors" means the Board of Directors of the San Miguel Community Services District.

"County" means the County of San Luis Obispo.

"Developed property" means any property located within the jurisdiction of the District that is not a vacant parcel.

"District" means the San Miguel Community Services District.

"General Manager" means the General Manager of the San Miguel Community Services District.

"Drop box," also called a roll-off box, means an open top, movable container in which primarily non-putrescible solid waste such as construction and demolition debris or non-putrescible recyclables are stored until removed from the premises.

"Franchisee" means and includes a person, or any other entity authorized under and by virtue of a contract with the San Miguel Community Services District to collect solid waste, organics and recycling.

"Hazardous materials" means any material defined as hazardous in the State 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.

"Occupant" means the person who is in possession of a developed property located within the District jurisdiction.

"Organics" means food waste and food-soiled paper waste, green wastes such as landscape and pruning waste, and nonhazardous wood waste.

"Owner" means the person or persons holding record title to the developed property to which solid waste recyclables and organics collection service is to be provided by the Franchisee.

"Person" means any individual, partnership, firm, corporation, other business entity, association, group or combination thereof and the plural as well as the singular.

"Receptacle" means a solid waste recyclables or organics container satisfying the requirements of Section 6.

"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 and recycling.

"Recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of products which meet the quality standards necessary to be used in the marketplace.

"Solid waste" means all putrescible and nonputrescible waste, including, but not limited to, waste paper, garbage, cardboard, rags, refuse, household ashes, wearing apparel, household goods, wooden containers, and all worthless, useless, unused, rejected or castoff solid or semi-solid matter, commercial and construction waste, and recyclable materials, excluding medical waste, radioactive waste, and hazardous materials as defined in this section.

**SECTION 3: USE OF DISPOSAL SERVICE MANDATORY -- COLLECTION OF CHARGES.**

- A. The District has determined that periodic collection and disposal (or processing) of solid waste, recyclables and organics from developed properties in the District benefits all occupants of developed properties in the District.
- B. The District will provide a service for the collection and disposal of solid waste, recyclables and organics through its Franchisee.
- C. Except as otherwise provided for herein, owners of all developed properties in the District must use the District's solid waste recyclables and organics collection and disposal service, subject to any Rules duly adopted by the District.
- D. The District or the Franchisee shall collect all fees for solid waste collection and disposal, as specified in the franchise agreement.
- E. The owner of developed property shall be responsible and liable for paying the solid waste collection and disposal fees for that property, although the District or Franchisee will bill an occupant of such property if requested by the owner.
- F. The failure of any occupant or owner to promptly remit the fee for solid waste collection and disposal when due and payable shall entitle the District or Franchisee to collect a late fee from that owner or occupant and will entitle the District or Franchisee to cease providing service. The amount of the late fee shall be established by the Board of Directors.
- G. Upon the direction of the Board of Directors, subject to any legal requirements, any monies owing for the solid waste, recyclables and organics services provided by the District or a Franchisee within the District and all penalties arising hereunder may be placed as a charge on the following year's tax roll of the respective property. Any collection

or other enforcement action in the name of the District may be commenced in any court of competent jurisdiction for the amount of any delinquent fees or charges and if legal action is brought by the District or its designee to enforce the collection of any amount charged and due under this section, any judgment rendered in favor of the District shall include costs of suit incurred by the District or its designee including a reasonable attorney's fee if allowable by law.

#### **SECTION 4: SOLID WASTE, RECYCLABLES AND ORGANICS ACCUMULATIONS.**

A. No person shall accumulate, keep or maintain solid waste, recyclables and organics upon any lot or parcel of land, whether public or private, other than in containers which have been approved by the District or Franchisee.

B. No person owning, occupying or having the control of any developed property or vacant lot or occupying a dwelling or commercial property within the District shall permit any solid waste, recyclables or organics to become or remain offensive, unsightly or unsafe to the public health or safety or to deposit, keep or accumulate or permit or cause any of these materials to be deposited, kept, or accumulated, upon any property, lot, or parcel of land or upon any public or private place, street, lane, alley or driveway, except as allowed in this Ordinance.

C. No person shall place or cause to be placed any solid waste, recyclables or organics generated upon any property or by any residential, commercial, or industrial use into any receptacle or drop box other than those owned or controlled by such person, unless permission for such use is granted by the commercial or residential customer owning or controlling the receptacle or drop box.

D. No person owning, occupying or having control of any premises shall set out or cause to be set out for collection any solid waste, recyclables or organics other than that originating on the premises.

E. No person shall dispose of solid waste, recyclables or organics originating or generated on such person's property in or near litter receptacles placed by the District in public places for incidental use by pedestrian or vehicular traffic.

F. No person shall accumulate, keep or deposit solid waste, recyclables or organics in such a manner that a public nuisance is created, including, but not limited to, allowing flies, mosquitos, rodents or other vectors to breed therein.

#### **SECTION 5: CLEARING OF SOLID WASTE, DEBRIS AND VEHICLES FROM PRIVATE PROPERTY.**

A. The District Manager, his or her designee or an authorized representative of the County are authorized and empowered to notify the owner, his agent, or person in control

of any private premises within the District, to dispose of solid waste prohibited by this ordinance. Such notice shall be given by posting the private premises and by certified mail addressed to the owner, his agent, or such other person at his last known address, or by personal service on the owner, agent, person in control or occupant of the property.

B. The notice shall describe the work to be done and shall state that if the work is not commenced within five (5) days after receipt of notice and diligently prosecuted to completion without interruption, the General Manager shall cause or direct the solid waste to be properly disposed of and the cost thereof shall become a lien on the property. The notice shall be substantially in the following form:

NOTICE TO REMOVE  
SOLID WASTE

The owner of the property described as follows: \_\_\_\_\_

\_\_\_\_\_ commonly known as \_\_\_\_\_ is hereby ordered to properly dispose of the solid waste located on the property, to wit:

\_\_\_\_\_ within five (5) days from the date thereof. If the disposal of the waste matter herein indicated is not commenced and diligently prosecuted to completion within the time fixed herein, the District Manager of the San Miguel Community Services District shall cause such disposal to be done, and the cost thereof, including any incidental expenses, will be made a lien upon said property, pursuant to the provisions of Ordinance No. \_\_\_\_ of the San Miguel Community Services District.

General Manager of the San Miguel Community Services District

C. The General Manager or his/her authorized representatives shall cause to be kept in his/her office a record containing: (1) a description of each parcel of property for which notice to dispose of solid waste has been given; (2) the name of the owner, if known; (3) the date on which such notice was mailed and posted; (4) the charges incurred by the District in disposing of solid waste, and all incidental expenses in connection therewith; and (5) a brief summary of the work performed. Each such entry shall be made as soon as practicable after completion of such act.

D. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of the solid waste within five (5) days after notice has been given as provided in this section, or within ten (10) days after the date of mailing such notice in the event the U.S. Post Office is unable to make delivery thereof, provided the same was properly addressed to the last known address of such owner or agent, the General Manager or his/her authorized representatives are authorized and empowered to pay for the disposal of such solid waste out of the District funds or to order its disposal by District forces. The General Manager and his/her authorized representatives, including any contractor with whom

he/she contracts hereunder, and assistants, employees or agents of such contractor, are authorized to enter upon the property for the purpose of disposing of the solid waste described in the notice. Before the General Manager arrives, any property owner may dispose of the waste matter at his/her own expense.

E. When the District has effected the removal of such solid waste, or has paid for its removal, the actual cost thereof plus accrued interest at the rate of ten percent (10%) per year from the date of the completion of the work, shall be charged to the owner of such property and the owner or his agent, shall be billed therefor by mail, if not paid prior thereto. The bill shall apprise the owner that failure to pay the bill will result in a lien.

F. Where the full amount due the District is not paid by such owner within thirty (30) days after date of the billing by the District, the District shall cause to be recorded with the County Clerk-Recorder a sworn or certified statement showing the cost and expense incurred for the work, the date the work was done and the location of the property on which the solid waste removal work was done. The recordation of such sworn or certified statement shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. The costs and expenses shall be subject to a delinquent penalty of ten percent (10%) in the event same is not paid in full on or before the date the amount due becomes a lien. Sworn or certified statements recorded in accordance with the provisions of this section shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest and costs, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. The County Clerk-Recorder shall record the lien. The remedy provided in this section shall not constitute an election of remedies by the District.

#### **SECTION 6: SOLID WASTE, ORGANICS AND RECYCLING CONTAINERS.**

A. Solid waste, organics and recyclables shall be kept free of all hazardous materials and shall be securely wrapped and placed in a closed receptacle or drop box.

B. Containers shall be made of metal or plastic and of sufficient strength to prevent them from being broken under ordinary conditions. Containers shall be equipped with a vermin and animal resistant cover or seal which shall be utilized at all times. Containers shall be in a condition such that their contents can be fully enclosed and such that they shall stand upright and leave no sharp, jagged or otherwise dangerous corners or edges.

C. Drop boxes shall be constructed of metal or other material as approved by the District.

D. Containers and drop boxes shall be maintained by Occupants in a clean, safe and

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sanitary condition.

E. Solid waste, organics and recyclables shall be placed in the containers furnished by the Franchisee.

**SECTION 7: PLACEMENT OF CONTAINERS.**

A. Any container or drop box shall be placed for collection on any sidewalk, street, roadway or alley only as provided in this ordinance or any Rules duly adopted by the District.

B. Any container shall be placed for collection along any street, roadway or alley only on the day 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 eighteen (18) hours after it has been emptied unless special in yard service has been contracted for.

C. Any container placed for collection along a street or roadway shall be placed between the curb line and the property line as close to the curb line or edge of the street or roadway as practicable, without causing a safety hazard.

D. Any container or drop box placed for collection in any alley shall be placed as close to the property line as practicable.

E. Any drop box placed in any street, roadway or alley shall obtain an encroachment permit from the County when required by County regulations.

**SECTION 8: INTERFERENCE WITH CONTAINERS AND DROP BOXES.**

No person other than the Franchisee or customer shall interfere in any manner with any receptacle or drop box or the contents thereof, nor remove any such receptacle or drop box from the location where it was placed by the customer or Franchisee nor remove the contents of any receptacle or drop box.

**SECTION 9: FRANCHISE FOR COLLECTION -- AUTHORIZATION.**

A. A franchise, exclusive or nonexclusive, for the collection and disposal of solid waste, organics and recyclables, may be granted by the District.

B. No person shall collect, or enter into an agreement to collect, or provide for the collection or disposal of solid waste, organics and recyclables, unless such person is authorized by the District to operate within the District by means of a franchise agreement.

**SECTION 10: COLLECTION RATES.**

Rates for solid waste, recyclables and organics collection and disposal shall be set by resolution {CW094284.1} 6-25-2020

of the Board of Directors.

**SECTION 11: DISPOSAL SITE.**

The franchisee shall arrange for the disposal and processing of all solid waste, recyclables and organics collected within the District at a properly licensed disposal site or processor, and shall ensure that all materials collected are disposed of in a manner conforming to all applicable government laws, codes, and statutes, including those of the District. All solid waste collected within the District, and not separated for recycling shall be delivered to the disposal site and disposed of according to the regulations of the disposal site.

**SECTION 12: COLLECTION AND DISPOSAL REQUIRED AT LEAST ONCE A WEEK.**

All solid waste, recyclables and organics located or generated within the District shall be placed in a receptacle or drop box by the Occupant or Owner and shall be removed by the District, its agent, employees, or Franchisees or representatives, at least once every seven (7) days, or more often as directed by the District.

**SECTION 13: CONDITION OF COLLECTION TRUCKS.**

Every truck used by a Franchisee in the collection and removal of solid waste, recyclables and organics shall be kept well painted, clean inside and out and in good operating condition. All Franchisee vehicles must meet all applicable regulations.

**SECTION 14: EXCEPTIONS.**

- A. Nothing in this ordinance shall be deemed to prohibit the removal and hauling by a licensed person of materials considered by the District to constitute a health hazard of such nature as necessary to be ordered to be promptly removed.
- B. Nothing in this ordinance shall be construed to prohibit any producer of solid waste from personally hauling the same in the producer's vehicle through the streets of the District; provided, however, such hauling and disposal shall at all times be subject to any Rules duly adopted by the District.
- C. 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.

**SECTION 15: BURNING REFUSE.**

Burning of solid waste is prohibited within the District boundaries as outlined in the District Fire Ordinance, this ordinance may be updated from time to time by the Board of Directors.



**SECTION 16: UNLAWFUL COLLECTION.**

A. A Franchisee shall not be required to collect hazardous waste, medical waste, radioactive waste 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 solid waste collection containers described in Section 6. 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.

B. 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) shall not be collected by a Franchisee 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.

**SECTION 17: HEALTH REGULATIONS -- ESTABLISHMENT.**

The District shall have power to establish rules and regulations not inconsistent with this ordinance governing the collection and disposal of solid waste; provided, that such rules and regulations shall have as their purpose the enforcement of the provisions of this ordinance and the health and sanitary laws and ordinances in effect in the District.

**SECTION 18: RECYCLING AND RECYCLABLE MATERIALS: FINDINGS.**

- A. The Board of Directors supports a reduced or zero waste philosophy as being in the best interests of the District and the State of California, as it promotes the conservation of resources, responsible consumption, reuse and recovery of products and packaging with reduced discharges to land, water, or air which may compromise the environment or human health. While not mandating zero waste, the Board encourages members of the District to engage in responsible recycling and discarding of waste.
- B. The Board of Directors has determined that it is in the best interests of the District to promote recycling of discarded waste materials.
- C. The Board of Directors has determined that it is in the best interests of the District to promote said recycling through the use of a Franchisee.

D. The Board of Directors finds that the success of the recycling program is in part dependent upon the ability of a Franchisee to collect recyclable materials without interference by unauthorized persons and that such unauthorized interference may have serious adverse effects on the success of recycling programs.

**SECTION 19: USE OF RECYCLING SERVICE MANDATORY -- COLLECTION OF CHARGES.**

A. The District has determined that periodic collection of recyclable materials from all developed properties in the District benefits all occupants of developed properties in the District.

B. The District will provide recycling collection service through its Franchisee.

C. The District or the Franchisee shall collect all fees for recycling collection, as specified in the franchise agreement.

D. Except as otherwise provided for herein, all owners of developed property shall be responsible and liable for paying the recycling collection service fees for that property, regardless of whether such owner elects to use such service, although the District or Franchisee will bill an occupant of such property if requested by the owner.

E. The failure of any occupant or owner to promptly remit the fee for recycling collection service when due and payable shall entitle the District or Franchisee to collect a late fee from that owner or occupant. The amount of the late fee shall be established by the Board of Directors.

G. Upon the direction of the Board of Directors, subject to any legal requirements, any monies owing for the recycling services provided within the District and all penalties arising hereunder may be placed as a charge on the following year's tax roll of the respective property owner. Any collection or other enforcement action in the name of the District may be commenced in any court of competent jurisdiction for the amount of any delinquent fees or charges and if legal action is brought by the District or its designee to enforce the collection of any amount charged and due under this section, any judgment rendered in favor of the District shall include costs of suit incurred by the District or its designee including a reasonable attorney's fee if allowable by law.

**SECTION 20: COLLECTION RATES - RECYCLING.**

The rates to be charged for the collection of recyclable materials shall be established by resolution of the Board of Directors.

**SECTION 21: OWNERSHIP OF RECYCLABLE MATERIALS.**

Recyclable material shall become the property of a Franchisee upon placement of recyclable material at a recycling collection location within the District.

**SECTION 22: UNAUTHORIZED COLLECTION OF RECYCLABLE MATERIALS PROHIBITED: PENALTY.**

It shall be unlawful for any person, other than the Franchisee, to remove recyclable material which has been placed at a designated recycling collection location, during the twenty-four (24) hour period commencing at 6:00 p.m. on any day preceding a day designated for collection of recyclable material.

**SECTION 23: RIGHT OF INDIVIDUAL TO DISPOSE OF RECYCLABLES.**

Nothing in this ordinance shall limit the right of an individual person, organization, or other entity to donate, sell or otherwise dispose of recyclables, provided that any such disposal is in accordance with the provisions of this ordinance.

**SECTION 24: CIVIL ACTION BY FRANCHISEE.**

Nothing in this ordinance shall be deemed to limit the right of a Franchisee to bring a civil action against any person who violates the provisions of Section 22.

**SECTION 25: CIVIL LIABILITIES AND PENALTIES.**

Any person who intentionally or negligently violates any provision of this ordinance shall be civilly liable to the District. Such civil liability may be in a sum not to exceed Ten Thousand Dollars (\$10,000). The District may petition the Superior Court to enforce and recover such sums. In determining such amount, the District shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, the corrective action, if any, and the fines and penalties imposed on the District by other agencies.

**SECTION 26: ENFORCEMENT.**

- A. The General Manager or his/her designee are specifically required to enforce the provisions of this ordinance.
- B. No person shall in any manner interfere with the collection or disposal of solid or waste or recyclable materials by any person authorized by Franchisee to collect and process or dispose of the same.

**SECTION 27: VIOLATION -- PENALTY.**

Every person as defined in this ordinance who violates any of the provisions of this ordinance is guilty of a misdemeanor.

**SECTION 28: AUTHORITY.**

This ordinance is passed pursuant to Health and Safety Code Sections 6520 and 6521 and Public Resources Code Section 40059.

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**SECTION 29: INTERPRETATION OF CONFLICTING PROVISIONS.**

In the event any provision of existing ordinances, resolutions, regulations or procedures of the San Miguel Community Services District not repealed by this ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

**SECTION 30: 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 Board of Directors 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 phrases be declared unconstitutional.

**SECTION 31: PUBLICATION OR POSTING.**

Within fifteen (15) days after adoption of this ordinance, it shall be posted in three (3) public places with the District (to wit: U.S. post office, Paso Robles Press, and 1150 Mission St. Bulletin Board) with the names of those Board members voting for and against the ordinance.

**SECTION 32: EFFECTIVE DATE.** This ordinance shall take effect thirty (30) days after its final passage.

On motion of Board Member Sangster, seconded by Board Member, Palafox and on the following roll call vote, to-wit:

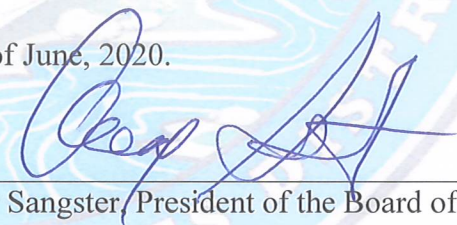
AYES: Kalvans, Gregory, Palafox, Green


NOES: 0

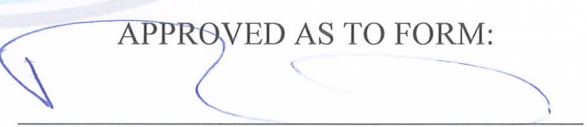
ABSENT: Green

the foregoing ordinance was adopted this 25th day of June, 2020.

  
Rob Roberson, Interim General Manager

  
Ashley Sangster, President of the Board of Directors

ATTEST:  
  
Board Clerk, Tamara Parent

APPROVED AS TO FORM:  
  
Douglas L. White, District General Counsel