

# ORDINANCE NO. 40

## AN ORDINANCE TO PROVIDE FOR REGULATION OF ACCUMULATION, COLLECTION AND DISPOSAL OF GARBAGE, RUBBISH, WASTE MATTER, REFUSE, RECYCLED MATERIALS AND THE LICENSING OF PERSONS ENGAGED THEREIN.

The Board of Directors of Sanitary District No. 1 of Marin County "District" does hereby ordain as follows:

### ARTICLE I PURPOSE, INTENT AND DEFINITIONS.

**SECTION 101. PURPOSE:** The purpose of this ordinance is to prevent actual or potential public health hazards and nuisance within the boundaries of Sanitary District No. 1 of Marin County, State of California, by regulating the accumulation, collection and disposal of solid waste, including but not limited to garbage, rubbish, waste matter, yard waste, recyclable materials and refuse, and to provide for the licensing and responsibilities of persons engaged therein. It is hereby declared to be in the public interest that the accumulation, storage, and disposal of all such materials be handled in such a manner as to prohibit the harboring and breeding of rodents and insects, to reduce pollution of the air caused by burning, fermentation or putrefaction of such materials, to prevent the spread of disease, to reduce the hazards of fire, and to prevent unsightliness resulting in the depreciation of property values and the comfortable enjoyment of life. The provisions of this Ordinance shall be applicable only as to those portions of the unincorporated areas

of Sanitary District No. 1 of Marin County bordered by the Town of Ross on the Northwest, the City of Larkspur on the South and East, and the City of San Rafael on the North, which are hereinafter declared and described or which may subsequently be declared by resolution or ordinance or franchise agreement.

It is further the intention of the Board of Directors of Sanitary District No. 1 by this ordinance to provide for the reduction, recycling, and resource recovery of solid waste generated within the District to the maximum extent feasible and as required by State law. Therefore, this ordinance establishes and includes a recycled materials collection service program for all persons in the District for the purpose of providing for the orderly and regular collection of recyclable materials.

**SECTION 102. DEFINITIONS:**  
**AUTHORIZED REFUSE AND RECYCLING AGENT:** Authorized Refuse and Recycling Agent means any person, firm or corporation with whom the District has contracted to collect and transport solid waste (refuse and/or recyclable materials) through the streets, alleys or public ways of the

District.

### **CURBSIDE PROGRAM:**

Curbside program means a recycling program which meets all of the following criteria:

- A) The program picks up recyclables from individual residences, condominiums, town houses, apartments, and commercial establishments.
- B) The program is operated by, or pursuant to a contract with, a city, county, district, or other public agency.
- C) The program accepts empty beverage containers from consumers with the intent to recycle them, but does not pay the redemption value or redemption bonus.

### **DESIGNATED COLLECTION**

**LOCATION:** Where an authorized recycling agent has contracted with either the local governing board or a private entity to pick up segregated, recyclable materials, it may designate a Designated Collection Location. This location will customarily be the curbside of a residential neighborhood or the service alley of a commercial (or multi-family) enterprise.

**GARBAGE:** Garbage means all kitchen and table food waste and animal or vegetable waste that

attends or results from the storage, preparation, cooking or handling of food stuffs.

**HEALTH OFFICER:** Health officer means the Health Officer of the County of Marin, or his qualified designated representative, acting as Health Officer for the Sanitary District No. 1.

**LIVING UNIT:** Living unit means any structure or portion of a structure having sleeping, cooking, and sanitary facilities. Cooking facilities for purposes of this ordinance shall be defined as any combination of the following: sink, refrigerator, cupboard and/or storage, stove, oven (including microwave and convection).

**PERSON:** Person means any person or persons, firm, association, corporation or other entity acting as principal, agent or officer, servant or employee, for himself or herself or for any other person, firm or corporation. Where the pronoun "he" is used to designate a person as herein defined, the pronoun "he" is intended to include "he/she/it".

**PREMISES:** Premises includes a tract or parcel of land with or without habitable buildings or appurtenant structures. For purposes of this ordinance the word premises includes residential and commercial uses of the land, whether owned, leased, rented or sub-rented.

**RECYCLABLE (SEGREGATED) MATERIALS:** Recyclable (segregated) materials means any material designated to be segregated from the waste stream for purposes of recycling. This designation shall be made by the District and the

Recycling Agent based on good public practice, ability to receive an acceptable economic return, and feasibility of separating the material from the waste stream at the point of collection. Recyclable (segregated) materials are currently limited to paper, glass, cardboard, plastics, ferrous metal, aluminum and yard waste.

**RECYCLING:** Recycling means the process by which salvaged materials become usable products.

**RESOURCE RECOVERY:** Resource Recovery means the reclamation or salvage of wastes for reuse, conversion to energy or recycling.

**SOLID WASTE:** Solid Waste means all putrescible and non-putrescible solid and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. Recyclable materials are a part of solid waste. For purposes of this ordinance, the terms "solid waste" and "refuse and recyclable materials" are synonymous.

**YARD WASTE:** Yard waste means and includes all garden, tree, shrub and lawn trimmings, leaves, weeds and nontreated wood.

## ARTICLE II

### STORAGE AND DISPOSAL

**SECTION 201. GENERAL:** It shall be unlawful for any person to

keep, deposit, bury, burn or dispose of any solid waste, except as provided in this ordinance, in or upon any private property, public street, alley, sidewalk, gutter, park or upon the banks of or within any stream or creek in said District, or in or upon any of the waters thereof. Therefore, it is the intent of the District that every person residing or conducting business in this District shall dispose of solid waste except as otherwise provided in this ordinance, through the Authorized Refuse and Recycling Agent of said District. Nothing in this ordinance shall prevent an owner and/or occupant of a residential or commercial premises from making occasional disposals at an authorized disposal site in addition to their regular weekly service, or from utilizing a temporary debris box service, consistent with Article III, Section 305.

### SECTION 202. DUMPING OR BURYING:

No person shall dump, place or bury in any lot, land or street or alley within the District any solid waste, without first having obtained a solid waste facilities permit or exemption from that permit issued by the Local Enforcement Agency (LEA) of Marin County and concurred with by the California Integrated Waste Management Board (CIWMB). Under no circumstances whatsoever shall recyclable materials be dumped, placed, or buried, as above. This Ordinance shall not preclude or prohibit the District from siting and permitting a recycling facility consistent with the provisions of the General Plan provided that neces-

sary variances are obtained from the California Department of Toxic Substances Control.

**SECTION 203. ACCUMULATION:** No person owning or occupying any building, lot or premises within the District shall allow any solid waste to accumulate or remain in or upon said building, lot or premises, in a manner that creates a public nuisance. The owner of any premises, business establishment, industry, or other property, vacant or occupied, shall be responsible for the safe and sanitary storage of all solid waste accumulated on the property. Containers shall be filled in a manner that prevents the contents from overflowing and allows the cover to fit securely. Containers for garbage and rubbish shall be of an adequate size and of sufficient numbers to contain without overflowing, all the refuse that a household or other establishment generates within the designated removal period. Overflowing refuse is a public health violation. It shall be the responsibility of the owner of any building, lot or premises to notify the Authorized Refuse and Recycling Agent promptly when necessary to upgrade collection service to prevent refuse from overflowing existing containers. If the District or authorized Health Officer (LEA) determines that inadequate service causes a public nuisance or health problem, they may order the owner to upgrade service and lien property for any cost of clean up and/or upgraded service. The Authorized Refuse and Recycling Agent shall upgrade

collection service immediately upon notice.

**SECTION 204. BURNING:** No solid waste shall be deliberately burned within the District without having first obtained a permit to do so from the governmental body or agency responsible for fire protection and having jurisdiction to issue the same. Any such burning pursuant to permit shall be done in accordance with any and all applicable Federal, State, County, City, District or other local laws, ordinances, rules and/or regulations, including, but not limited to, requirements of any city, district, public entity or agency having jurisdiction over air pollution or public health and safety.

**SECTION 205. TRANSPORTATION OF SOLID WASTE:** No person shall move, convey or transport or cause or permit to be moved, conveyed or transported any solid wastes upon or along any public street or alley or other public place in the District; provided, however, the provisions of this section shall not apply to any person conveying solid waste collected outside the District, nor to any person employed by the District who shall be assigned to the work of solid waste removal while acting within the scope of his or her employment or to any person or entity with whom the District has entered into or may hereafter enter into a contract for the collection, removal, or disposal of solid waste or to any employee of such contractor during such time as such contract shall be in force. Nor shall this section be deemed to prohibit an individual from exercising his rights as described in Article

II, Section 201 and Article II, Section 208, which authorizes occasional disposals at authorized disposal sites, and the right to dispose of recyclables.

**SECTION 206. OBLIGATION OF DISPOSAL:** Every property owner, occupant or tenant of any premises within the District shall have the obligation for disposal of solid waste as provided in this ordinance through the designated Authorized Refuse and Recycling Agent and shall pay said Authorized Refuse and Recycling Agent for said collection service at the rates provided therefore. Failure of receipt of a bill does not obviate responsibility for payment. In each instance, the property owner shall be primarily responsible for the payment of the charges provided for herein. The District or Authorized Refuse and Recycling Agent may cause a lien to be placed upon the real property for failure to compensate the Authorized Refuse and Recycling Agent for services rendered.

**SECTION 207. UNAUTHORIZED REMOVAL OF RECYCLABLE MATERIALS AND OWNERSHIP OF RECYCLABLE MATERIALS:** No person, other than the Authorized Refuse and Recycling Agent of the city or county, shall remove paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or other recyclable materials which have been segregated from solid waste materials and placed at a designated collection location for residential curbside collection programs authorized by a city, county, district,

or local agency for the purposes of collection and recycling. From the time the recyclable materials specified above are placed for collection at curbside, for a residential curbside collection program, or a designated collection location, authorized by a city, county, district, or local agency, the recyclable materials are the property of the Authorized Refuse and Recycling Agent.

**SECTION 208. RIGHT TO DISPOSE OF RECYCLABLE MATERIALS:** Nothing in this chapter limits the right of any person to donate, sell, or otherwise dispose of his or her recyclable materials.

**SECTION 209. STORAGE:** In all cases in which garbage and other solid wastes are combined, the standards for garbage shall prevail. The property owner or occupant shall store solid waste on his/her property or premises or shall require it to be stored or handled in such manner so as not to promote the propagation, harborage or attraction of animals or the creation of nuisance.

**SECTION 210. STORAGE RECEPTACLES, SOLID WASTE:** It shall be the duty of every property owner, occupant and tenant of any premises within the District to store all refuse in receptacles supplied by the authorized refuse agent. These receptacles shall be constructed of metal or an approved plastic material and type which shall be water tight, nonabsorbent, animal resistant, durable, easily cleanable, equipped with handles and tight-

fitting covers such that said containers hold said solid waste without spillage and leakage, escape of odors or access of flies to the contents thereof. Each living unit shall be required to have a minimum refuse service of one (1) 32 gallon can per week. The number of units times 32 gallon service is the minimum service required. Except in the case of multifamily dwellings of more than four (4) units, no two or more living units shall use the same garbage container except with the permission of the Authorized Refuse and Recycling Agent.

**SECTION 211. STORAGE RECEPTACLES, RECYCLING:** It shall be unlawful to place, or permit to remain, any garbage or any other material subject to decay except in a suitable covered container, as set forth herein and in Article II, Section 203. The specific nature of said containers shall be established as from time to time approved by this District and Authorized Refuse and Recycling Agent. It is further the duty of the Authorized Refuse and Recycling Agent and each property owner, occupant and tenant having recyclable materials, to provide without expense to the District, suitable and sufficient receptacles or containers as may be specified by the Authorized Refuse and Recycling Agent, for receiving and holding without spillage and/or leakage all recyclable materials to be collected.

**SECTION 212. RECEPTACLE LOCATION:** No refuse and/or recyclable materials receptacle other than those owned or rented by the District shall be placed or kept in or on any public street, sidewalk, footpath, or any public place whatsoever, but shall be maintained on the premises, except as may be provided for removing and emptying by the Authorized Refuse and Recycling Agent on the day(s) and in the location designated for collection.

**SECTION 213. PUBLIC RECEPTACLES:** It shall be unlawful for any person to place or cause to be placed in any public receptacle owned or rented by the District and located upon public streets or in public places, any solid waste originating within or from any private property of more than one-half cubic foot, including casual use.

**SECTION 214. RECEPTACLE MAINTENANCE:** Each receptacle and its cover shall be kept clean, and the cover shall not be removed except to place solid waste therein or to empty the same. Authorized Refuse and Recycling Agent will maintain or replace receptacles as needed.

**SECTION 215. TAMPERING:** No person shall tamper with, modify, remove from or deposit solid waste in any container which has not been provided for his use at a designated collection location, without the permission of the container owner. Nor shall any person tamper with any receptacle or any recyclable materials on any premises, or collect, remove or dispose of the same, other than in the man-

ner specified by this ordinance (See Article II, Section 207).

**SECTION 216. COLLECTION INTERVALS:** All solid waste accumulated at any business place, private living unit or residence shall be collected at regular intervals of at least once each week, except that from any place which has solid waste from which foul odors arise, or which is a menace to public health, such solid waste shall be collected at such intervals as necessary for proper sanitation. For the purposes of this ordinance, any living unit with cooking facilities, and which is occupied, shall be considered to produce solid waste. Nothing in this ordinance shall be deemed to prohibit the removal and hauling by any person of materials ordered by the Health Officer, Fire Chief or Code Enforcement Officer to be removed upon the ground that the same constitute a health menace, fire hazard, or public nuisance.

**SECTION 217. COLLECTION SCHEDULE:** Solid Waste shall be collected as provided by this ordinance at regular intervals on a schedule established by the Authorized Refuse and Recycling Agent and approved by the District. Said schedule may be changed from time to time if deemed necessary by the Authorized Refuse and Recycling Agent and/or the District.

**SECTION 218. OWNERSHIP OF SOLID WASTE MATERIALS:** Solid wastes subject to collection by the Authorized Refuse and Recycling Agent shall become the property of the Authorized Refuse and Recycling Agent subject to this ordinance after such time as

said Authorized Refuse and Recycling Agent takes possession of the wastes, or as provided for segregated recyclable materials in Article II, Section 207 and consistent with Public Resources Code, Section 41950.

**ARTICLE III  
LICENSE OR CONTRACT**

**SECTION 301. CONTRACT:** The District may, after a duly noticed public hearing, with or without having invited bids therefore, enter into a contract with any responsible person, firm or corporation for the collection, removal, or disposal of solid waste accumulated within the District. The term of said contract, rates of collection, and other provisions of the contract shall be as provided by resolution of the Board of Directors of the District. Where such a contract has heretofore been or hereafter is entered into between the District and a contractor for the collection, removal and disposal of solid waste, and said contractor shall have satisfactorily performed such contract, the District may, after a duly noticed public hearing, without inviting bids or proposals therefore, either prior to or after the expiration of such contract, extend or renew the same for such a period and on such terms and conditions as the District shall provide by resolution. Said contractor shall be known as the Authorized Refuse and Recycling Agent.

**SECTION 302. SERVICE:** Unless otherwise authorized by District, the Authorized Refuse and Recycling Agent must provide not less than weekly solid waste pickup service to all persons situated within the areas specified in such contract, provided payment for such service is made. The service shall be provided in a competent, efficient, clean and courteous manner.

**SECTION 303. MINIMUM PROVISIONS:** The provisions of this ordinance shall be the minimum requirements for the protection of the public health, safety, convenience and general welfare.

**SECTION 304. AUTHORIZED REFUSE AND RECYCLING AGENT:** The Authorized Refuse and Recycling Agent, in accordance with this ordinance, shall be considered as and shall be an independent contractor and shall be responsible to the District for the result of the work to be done, but shall act under his own directions as to the manner of performing the work; and shall keep himself and all of his employees insured under California's worker's compensation insurance requirements, and shall be insured against public liability and property damage, to be not less than \$20,000,000 plus any additional coverage required from time to time by the District, (including all such liability for use or operation of motor vehicles used in the performance of work hereunder). Evidence of such insurance shall be filed with the District listing the District as additional insured.

**SECTION 305. EXCLUSIVE**

**RIGHT:** The award of a contract hereunder shall grant the Authorized Refuse and Recycling Agent during the term of the contract the exclusive right to collect, transport and dispose of all solid waste collected within the District except as otherwise expressly provided in this ordinance; provided further, however, that debris box service for construction and temporary cleanup purposes may be provided by persons other than the Authorized Refuse and Recycling Agent.

**SECTION 306. PERFORMANCE BONDS:**

The person or entity to whom such contract shall be awarded shall file with the District a bond for the faithful performance of the contract in the sum of \$100,000.00. Said bond shall be immediately paid to the District upon determination, as provided in Article IV, Section 406 hereof, that the Authorized Refuse and Recycling Agent has failed to fully perform in a competent, efficient, clean and courteous manner all of the services provided by this ordinance or the contract between the District and the Authorized Refuse and Recycling Agent. In lieu of a performance bond the agent may furnish alternate financial security approved by the District Manager and District Attorney.

**SECTION 307. EXCEPTIONS:**

With the exception that the sanitary requirements of this ordinance must be complied with, the provisions hereof shall not apply to persons collecting dead animals, bones, or meat scraps for tallow plants or

medical wastes.

**ARTICLE IV  
RESPONSIBILITIES OF  
AUTHORIZED REFUSE  
AND RECYCLING AGENT**

**SECTION 401. REGULATIONS:**

Except as otherwise permitted by this ordinance, and except for occasional use which is not in lieu of regular weekly service, it shall be unlawful for any person to collect or carry solid waste through the streets of the District without first having entered into a contract or obtained a permit from the District to do so. The Authorized Refuse and Recycling Agent shall not permit any solid waste to fall or remain on any public street or private premises in the District, shall close all gates used by it in collection service, and shall operate as quietly as the circumstances allow. Collection and transportation equipment shall be maintained and utilized consistent with the California Code of Regulations, Sections 17341 - 17345. The Authorized Refuse and Recycling Agent shall further abide by any and all applicable laws and the regulations and orders of the County Health Department or officer, and ordinances and general regulations of the District, now or hereafter adopted.

**SECTION 402. PERIODIC SERVICE:**

Unless otherwise authorized by the District or by State law, the Authorized Refuse and Recycling Agent shall provide not less than weekly service to each owner, resident or tenant within the District. The Authorized Refuse

and Recycling Agent may terminate service to any owner, resident or tenant for nonpayment of the established rates if not fully paid for a period of two months from and after the date such payment is due. Prior to termination of such service, the Authorized Refuse and Recycling Agent shall notify the District and customer, in writing, of the proposed date of termination and the reason therefore. Such notice shall be given by the Authorized Refuse and Recycling Agent to the District no less than ten days prior to the date of termination of service. The customer may request temporary suspension of service if the premises are to be vacated for a reasonable period of time, to be not less than two (2) weeks and to occur no more than three times in a one year period. The customer is also required to provide the Authorized Refuse and Recycling Agent with a resumption date for service.

**SECTION 403. RECYCLING:**

Authorized Refuse and Recycling Agent shall provide for the maximum feasible diversion of waste from the waste stream and shall provide for the recycling, resource recovery, and reuse of materials with economically viable markets. The Authorized Refuse and Recycling Agent shall provide the District with diversion rate reports at appropriate intervals consistent with Public Resources Code, Division 30, Section 40000 et seq. The Authorized Refuse and Recycling Agent shall further disseminate to all property owners, occupants and tenants current information and educational materials regarding

solid waste management, resource recovery and recycling diversion.

**SECTION 404. LIABILITY:**

The Authorized Refuse and Recycling Agent and the District shall be exempt from responsibility and liability for tampering or misuse of any items left at curbside for collection and/or recycling should spillage or other mishap occur prior to possession by Authorized Refuse and Recycling Agent. Once the Authorized Refuse and Recycling Agent takes possession of the solid waste, the Agent then assumes responsibility and liability.

**SECTION 405. ASSIGNMENT:**

Neither the collection contract nor any part thereof shall be assigned, either voluntarily or by operation of law, except upon the consent expressed by a resolution of the District.

**SECTION 406. TERMINATION:**

If the Authorized Refuse and Recycling Agent fails, refuses or neglects to comply with the terms of the contract or of any laws, ordinances or regulations above referred to, for a period of thirty days after being notified in writing to do so by the Board of Directors of the District, then, after a hearing upon not less than ten days written notice to the Authorized Refuse and Recycling Agent, the District shall be entitled to terminate the contract.

**ARTICLE V**

**RATES**

**SECTION 501. CHARGE FOR SERVICE:**

A charge shall be collected by the Authorized Refuse and Recycling Agent at rates to be established between the District and the Authorized Refuse and Recycling Agent. Said rates to be subject to change upon approval of and agreement between the District and said Authorized Refuse and Recycling Agent. The property owner is responsible for all charges for solid waste removal, including recyclable materials. Said rates shall provide to the Authorized Refuse and Recycling Agent a fair and reasonable compensation and return.

**SECTION 502. PAYMENT OF RATES:**

It shall be unlawful for any person to refuse to pay the rates fixed for the collection of solid waste. Nonpayment may result in cessation of service, a violation punishable by law, and/or a lien against the property. It shall be unlawful for any person to dispose of solid waste, from premises owned, occupied, or leased by him other than by and through the Authorized Refuse and Recycling Agent, except as provided by Article II, Sections 201, 202, 204 and 205 of this ordinance.

**SECTION 503. DISPUTED RATES:**

In any case where a dispute shall arise as to the rate or amount to be paid to the Authorized Refuse and Recycling Agent, the District shall have the power of final determination of such dispute, and both the Authorized Refuse and Recycling Agent and the owner,

resident or tenant shall be bound thereby. In no event shall the District be obligated in any way to the Authorized Refuse and Recycling Agent or any owner, resident or tenant for the collection of disputed accounts.

**ARTICLE VI**

**PENALTIES, SEVERABILITY**

**SECTION 601. PENALTIES:**

Violation of any of the provisions of this ordinance is a misdemeanor punishable by fine not to exceed one thousand dollars (\$1,000.00), imprisonment in the County jail not to exceed thirty (30) days, or both. Each and every violation of this Ordinance of the District shall be deemed a separate violation and each and every day or part of a day a violation of this ordinance continues shall be deemed a separate offense hereunder and shall be punishable as such.

**SECTION 602. DAMAGES:**

In any civil action by a recycling agent against a person alleged to have violated Public Resources Code, Section 41950, the court may either allow trebled damages, as measured by the value of the material removed, or award a civil penalty of not more than one thousand dollars (\$1,000), whichever is greater, for each unauthorized removal, against the unauthorized person removing the recyclable material.

**ARTICLE VII  
MISCELLANEOUS**

**SECTION 701.**

**SEVERABILITY:** If any word, phrase, clause or section of this ordinance shall be declared unconstitutional or void for any reason, the same shall not affect any other part or parts hereof, it being the intention of the District to pass and adopt each word, phrase, clause or section of this ordinance regardless of any other word, phrase, clause or section hereof.

**SECTION 702. ORDINANCE**

**NO. 30 REPEALED:** Ordinance No. 30 dealing with refuse collection or recycling is hereby repealed, and shall be and is hereby superseded by this ordinance and any subsequent amendments hereto.

**SECTION 703. FRANCHISE**

**AGREEMENT:** It is the intent of the District that franchise agreements will be entered into to implement the provisions of this ordinance. In the event of any ambiguity or any difference in the wording between such franchise agreements and this ordinance, the wording of the ordinance shall control.

**SECTION 704. PUB-**

**LICATION:** This Ordinance shall take effect and be in full force and effect seven days after publication in the Independent Journal a newspaper of general circulation within the jurisdiction of Sanitary District No. 1 of Marin County.

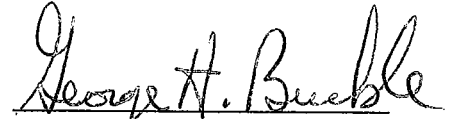
**PASSED AND ADOPTED** this fourth day of January, 1994, by the following vote:

AYES: Caneer, Hill, Mansell

NOES: Buckle

ABSTAIN: Oliva

ABSENT: None



GEORGE H. BUCKLE

PRESIDENT OF THE BOARD

ATTEST:



BRIAN P. OLIVA

SECRETARY OF THE BOARD