

ORDINANCE NO. 2017-03
AN ORDINANCE OF THE PHELAN PIÑON HILLS
COMMUNITY SERVICES DISTRICT,
COUNTY OF SAN BERNARDINO, CALIFORNIA,
ESTABLISHING A COMMERCIAL RECYCLING PROGRAM

WHEREAS, pursuant to the Local Agency Formation Commission County for San Bernardino County Resolution No. 3153, the District is authorized to collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000 et seq.), and consistent with Section 41821.2 of the Public Resources Code; and

WHEREAS, the Board of Directors of Phelan Piñon Hills Community Services District ("District") is required to comply with state recycling law, the California Integrated Waste Management Act of 1989 (also known as AB 939 and found at Public Resource's Code Section 40000 and following). Including the requirement that each city and county in California divert 50 percent, or the maximum amount feasible, of recyclable materials from landfills.

WHEREAS, such wastes are creating conditions which threaten the public health, safety, and well-being by potentially contributing to air, water, land pollution, and the general deterioration of the environment;

NOW THEREFORE BE IT ORDAINED by the Board of Directors of the Phelan Piñon Hills Community Services District, that the District's Policy No. 9200 is established as follows:

POLICY NO. 9200

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SECTION 9202. PURPOSE, INTENT AND FINDINGS

9202.01 The District is a public agency created under the Community Services District Law, California Government Code Section 61000 et seq. California Government Code, Sections 25827 and 25828 authorize the comprehensive collection of solid waste in unincorporated areas and require payment therefore by those persons and properties benefited thereby, to, among other purposes, promote recycling and diversion of solid waste from landfill by requiring businesses, non-residential properties, and commercial buildings to source separate recyclable materials form all other solid waste for recycling and diversion from landfill and provide for the collection of recyclable materials.

9202.02 Comply with state recycling law, the California Integrated Waste Management Act of 1989 (also known as AB 939 and found at Public Resources Code Section 40000 and et seq.), including the requirement that each city and county in California divert 50 percent, or the maximum amount feasible, of recyclable materials from landfills.

9202.03 Establish requirements for recycling of recyclable materials generated by commercial facilities, properties and special events, in order to increase the diversion of recyclable and compostable materials from landfill disposal, thus reducing greenhouse emissions, minimizing waste and helping to ensure the maintenance, restoration, enhancement, and protection of the environment, including natural resources.

9202.04 Provide an enforcement mechanism to ensure that business, commercial, non-residential properties, and multifamily dwellings provide for the proper collection of recyclable materials and provide protections against illegal scavenging of materials.

9202.05 Provide an exemption for generators who self-haul, donate or sell their recyclables, as well as provide an exemption process for those businesses that have major site constraints or generate a minimum level of material.

9202.06 The District continues to make progress in maintaining the disposal reduction requirements of the state recycling law, but additional efforts, particularly in the recycling of *plastic, paper, cardboard, glass, and other recyclable materials* generated by businesses, will assist the District in maintaining and exceeding the goal of diverting waste from landfill disposal.

9202.07 Efforts by the District and the private sector to encourage voluntary diversion of commercial and special event recyclable materials have not achieved desired levels of diversion. Additional efforts are necessary to ensure continued compliance with the requirements of the state recycling law and to ensure maximum recovery of valuable resources.

9202.08 In adopting this Ordinance, the District agrees to be subject to the terms of this

Ordinance for all of the District's non-residential facilities and properties, including parks and District buildings, as well as District sponsored or partnered special events.

9202.09 This Ordinance requires diversion of District identified recyclable materials by businesses, commercial facilities, commercial properties, and multi-family dwelling units.

SECTION 9203. DEFINITIONS

9203.01 **Business** - means any commercial entity, public entity, or other entity as determined by the hauler, that generates commercial solid waste including, but not limited to: a firm, partnership, proprietorship, joint-stock company, corporation or association that is organized as a for-profit or nonprofit entity, strip mall, (e.g. property complex containing two or more commercial entities), industrial facility, school, school district, special district or a federal, state, local, regional agency or facility. For the purposes of this Ordinance, "business" also includes multifamily residential dwellings.

9203.02 **Collect or Collection** - means to take physical possession of and remove Recyclable Materials at the place of generation.

9203.03 **Commercial Solid Waste** - means all putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous waste. Solid waste does include recyclable material. Solid waste includes dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material.

9203.04 **Compost** - is defined in state law (Public Resources Code Section 40116) as the product resulting from the controlled biological decomposition of organic wastes that are Source Separated from the municipal waste stream, or which are separated at a centralized facility.

9203.05 **Compostable Material** - means green waste and other material that can be broken down into, or otherwise become part of, usable Compost in a safe and timely manner, such as for use as soil-conditioning material. Compostable Material also includes waste such as food scraps, soiled paper and plant trimmings. Compostable Material (California Public Resources Code Section 40116) includes vegetable, yard and wood wastes which are not hazardous waste.

9203.06 **Contamination** - means placement of, with the intent to discard, inappropriate Solid Waste materials in a container designated for Recyclable Materials or Compostable Materials.

9203.07 **Customer** - means a Generator that arranges or subscribes for Solid Waste removal services and/or Recycling services with a Franchised Hauler. In the event Businesses share Solid Waste or Recycling containers and/or service, Customer refers only to the entity that arranges for the service.

9203.08 **General Manager** - means the General Manager of the District, including his or her designee.

9203.09 **Detachable Bin** - means a container provided by the hauler and designed for mechanical emptying and provided by the District or contractor where applicable for the accumulation and storage of recyclable materials.

9203.10 **Disposal** - means the final disposition of Solid Waste at a permitted solid waste disposal facility, as defined in California Public Resources Code Section 40192.

9203.11 **Diversion or Divert** - means the reduction or elimination of Solid Waste from solid waste disposal in accordance with California Public Resources Code Section 41024.

9203.12 **Force Majeure** - means the inability of a party to provide the services or perform the obligations required under this Agreement due to causes beyond their reasonable control including, but not limited to, compliance with any Government law or regulation, acts of God, fires, strikes, lockouts, national disasters, wars, riots, transportation problems and/or any other cause whatsoever beyond the reasonable control of the parties, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Excessive levels of Contamination (greater than 20% Solid Waste) shall not be considered grounds for Force Majeure.

9203.13 **Franchised Hauler** - means a Hauler holding a franchise, contract, license or permit issued by the District and provides Solid Waste handling services as authorized under Exclusive Franchise Agreement between the District and CR&R entered into the 9th day of February, 2012.

9203.14 **Generator** - means an owner of a Commercial Facility(ies) or Business, as defined in this section, which generates Solid Waste including Recyclable Materials or Compostable Materials. Generator includes tenants, property managers for facilities with leased space, employees and contractors of a Generator, if applicable.

9203.15 **Hauler/Contractor** - means any person or commercial entity which lawfully collects, hauls or transports Solid Waste by use of any means including, but not limited to, a dumpster truck, roll-off truck, side-load, front-load, rear-load garbage truck or a trailer.

9203.16 Multifamily Residential Property - means any multifamily dwelling, building or group of buildings that contain(s) five or more individual dwelling units on a single parcel. Multifamily complexes include, but are not limited to, apartment complexes, mobile home parks, senior housing/care facilities and condominium complexes.

9203.17 Mixed Waste Processing - means processing Solid Waste that contains Recyclable and/or Compostable Materials and Trash.

9203.18 Recycle or Recycling - means the process of collecting, sorting, cleansing, treating and reconstituting materials that would otherwise be disposed of as Solid Waste and returning them for use or reuse in the form of raw materials for new, used or reconstituted products which meet the quality standard necessary to be used in the market place as defined in Public Resources Code Section 40180.

9203.19 Recyclable Materials - means materials that have been separated from the solid waste stream prior to disposal and returning them for use or reuse in the form of raw materials for new, used or reconstituted products, which meet the quality standard necessary to be used in the market place and that are not landfilled. Recyclable Materials include any materials identified by the General Manager for which a market exists including, but not limited to: plastic bottles and jars, aluminum and bi-metal (tin) cans, paper, cardboard, glass, newspaper, metal and wood.

9203.20 Scavenging or Scavenger - means the uncontrolled and unauthorized removal of Recyclable Materials at any point in the Solid Waste management system.

9203.21 Self Recycler - means a Generator that accomplishes Recycling activities and/or participates in Recycling programs without utilizing a Franchised Hauler and without violating the provisions of Exclusive Franchise Agreement between the District and CR&R.

9203.22 Solid Waste - means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid material. Solid waste includes dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material.

9203.23 Source Separated or Source Separation - means the process of removing Recyclable Materials and/or Compostable Materials from Solid Waste at the place of discard generation, prior to collection, into separate containers that are separately designated for

Recyclable Materials or Compostable Materials for the purposes of Recycling.

9203.24 Source Separated Recycling Facility - means a Recycling, material recovery or re-use facility that is fully licensed, certified and eligible under federal, state and local laws and regulations, and includes those material recovery or reuse facilities or operations that receive, process and transfer to market Recyclable and/or Compostable Materials that have been Source Separated from the Solid Waste stream. The Recycling Facility may be located at a Landfill. Source Separated Recycling Facility also means a facility that produces Compost.

9203.25 Trash - means Solid Waste which is discarded separately from Recyclable Materials and/or Compostable Materials.

SECTION 9204. BUSINESS RECYCLING REQUIREMENTS

9204.01 Each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance. Each Generator shall:

9204.01.01 Subscribe to a Source Separated Recycling Service with the Franchised Hauler authorized to provide service for the area in which the Business is located; or

9204.01.02 Subscribe to a Solid Waste and Recycling Service with a Franchised Hauler authorized to provide service for the area in which the Business is located, that may include Mixed Waste Processing that yields diversion results comparable to Source Separation; or

9204.01.03 Self-Recycle and annually certify compliance with this Ordinance, and complete and retain on-site a Self-Recycling Log verifying Recycling activities; or

9204.01.04 Comply under the conditions of an approved exemption.

9204.02 Each Generator shall use, and maintain in good order, containers provided by the Hauler to collect and store Recyclable Materials and shall designate areas to collect and/or store Recyclable Materials, unless Recycling service is provided through a Mixed Waste Processing Facility.

9204.03 Each Generator shall place all Recyclable Materials for collection in containers with a lid and conforming to the following requirements, unless Recycling service is provided through a Mixed Waste Processing Facility. No container shall be loaded beyond its capacity. It shall be the Generator's responsibility to keep the containers used for the storage and collection

of Recyclable Material generated on the premises in a clean and sanitary condition. No material or containers shall be kept or handled in such a manner as to become a nuisance. No Recyclable Material shall be allowed to become odoriferous or a producer of vermin. Lids on containers shall remain closed at all times while stored or placed for Collection.

SECTION 9205. FRANCHISED HAULERS

9205.01 General Requirements for Franchised Haulers providing Source Separated Recycling Services:

9205.01.01 Franchised Haulers shall offer Collection service and containers for Recyclable Materials sufficient to accommodate the quantity and types of Recyclable Materials to all of its Customers and shall provide Recycling Services as described in this Section of this Ordinance.

9205.01.02 Franchised Haulers shall identify containers for Recyclable Materials with their name, recognizable corporate or company logo, and phone number of the Franchised Hauler that is legible from a distance of 50 feet.

9205.01.03 Franchised Haulers shall equip and provide containers for Recyclable Materials, with locks and/or other suitable features, where feasible and when necessary, to prevent Scavenging. They shall conduct all activities in accordance with applicable laws, County codes and regulations, and best management practices.

9205.01.04 Franchised Haulers shall not take a Customer’s Source Separated Recyclable Materials to a Landfill or other site for Disposal. Such materials shall be taken to a Recycling Facility or Franchised Haulers shall make other arrangements for recycling the materials instead of Disposal. The Franchised Haulers shall maintain receipts documenting that the Generator’s Recyclable Materials have been properly delivered, as well as any documentation evidencing an event of Force Majeure which prevented the proper Collection and/or delivery of Recyclable Materials.

9205.01.05 A Franchised Hauler may charge a penalty fee to a Customer when Recyclable Materials are not adequately Source Separated from Solid Waste. Adequate Source Separation is twenty percent (20%) Contamination or less. A penalty fee may only be charged after meeting the following requirements:

9205.01.05.01 The Franchised Hauler shall notify the Customer of

noncompliance in writing twice, explaining the reason for noncompliance and explaining how the Customer may comply; and

9205.01.05.02 The Franchised Hauler shall make at least one visit to the Customer's place of Business to show the Customer how to comply; and

9205.01.05.03 The Franchised Hauler shall notify the District's General Manager, or designee, in writing on non-compliance, documenting non-compliance and the steps taken above.

9205.01.06 The Franchised Hauler shall only charge a penalty fee in the amount approved by the General Manager, or designee.

9205.01.07 A Franchised Hauler may cancel Recycling service when Recyclable Materials continue to not be adequately Source Separated from Solid Waste, as defined above, only after assessment of at least two penalties by the Franchised Hauler, and shall notify the District's General Manager, or designee.

9205.02 Source Separated Recycling Services provided by Franchised Haulers, shall include, at a minimum, the following:

9205.02.01 Bi-weekly collection of non-Compostable Source Separated Recyclable Materials or as approved by the General Manager;

9205.02.02 Collection of Compostable Source Separated Recyclable Materials at a minimum of one time per week or more often, as approved by the General Manager, if applicable;

9205.02.03 Utilization of Recycling receptacles which comply with District's standards.

9205.02.04 Appropriate signage on all Recycling receptacles, containers, chutes and/or enclosures which allow users to clearly and easily identify which containers to use for Recyclable Materials, Compostable Materials or Trash.

9205.03 Reporting. Franchised Haulers providing Source Separated Recycling services shall provide quarterly reports on the dates and in the format prescribed by the General Manager, such reporting may include, but is not necessarily limited to:

- 9205.03.01 A list of Customers they have in the approved franchise area; the name, address and account number of the facility serviced; and the name of the Generator and/or Customer for Solid Waste and/or Recyclable Materials management;
- 9205.03.02 The volume per month of trash collection service provided to the Business, Commercial Facility or property;
- 9205.03.03 The cumulative volume, calendar year-to-date, of trash collection service provided to the Business, Commercial Facility or property;
- 9205.03.04 The volume per month of non-Compostable Source Separated Recyclable Materials collection service provided to the Business, Commercial Facility or property;
- 9205.03.05 The cumulative volume, calendar year-to-date, of non-Compostable Recyclable Materials collection service provided to the Business, Commercial Facility or property;
- 9205.03.06 The volume per month of Compostable Recyclable Materials collection service provided to the Business, Commercial Facility or property;
- 9205.03.07 The cumulative volume, calendar year-to-date, of Compostable Recyclable Materials collection service provided to the Business, Commercial Facility or property;
- 9205.03.08 The total volume per month of combined refuse collection and Recycling collection service provided to the Business, Commercial Facility or property;
- 9205.03.09 The cumulative volume, calendar year-to-date, or combined refuse collection and Recycling collection service provided to the Business, Commercial Facility or property;
- 9205.03.10 The location of the Source Separated Recycling Facility(ies) to which the Source Separated Recyclable Materials were taken during the previous quarter, including the tonnage of Source Separated Recyclable Materials delivered to such facility each month; and
- 9205.03.11 Information about changes in Recycling such as new customers or

cancellations, including business name and address.

9250.03.12 The initial quarterly reporting periods shall be as follows:

Reporting Period	Due Date
January 1 – March 31	May 1
April 1 – June 30	August 1
July 1 – September 30	November 1
October 1 – December 31	February 1

9205.04 General Requirements for Franchised Haulers providing Mixed Waste Recycling Services:

9205.04.01 Franchised Haulers shall offer Collection service and containers as described in their respective individual Franchise Hauler Agreement.

9205.04.02 Franchised Haulers shall not take a Customer's mixed waste to a landfill or other site for disposal prior to processing through a Mixed Waste Processing Facility or make other arrangements for processing the mixed waste instead of Disposal. The Franchised Hauler shall only deliver mixed waste collected for Recycling to a Mixed Waste Processing Facility and not to any other facility or location. The Franchised Haulers shall maintain receipts documenting that the Generator's mixed waste has been properly delivered, as well as any documentation evidencing an event of Force Majeure which prevented the proper collection and/or delivery of mixed waste to the designated Mixed Waste Processing Facility.

9205.05 Reporting. Franchised Haulers providing mixed waste Recycling services shall provide quarterly reports on the dates and in the format prescribed by the General Manager, such reporting may include, but is not necessarily limited to:

9205.05.01 A list of Customers they have in the approved franchise area; the name, address and account number of the Business serviced; and the name of the Generator and/or Customer for Solid Waste management;

9205.05.02 The volume per month of mixed waste Collection service provided to the Business, Commercial Facility or property;

9205.05.03 The cumulative volume, calendar year to date, of mixed waste Collection service provided to the Business, Commercial Facility or property;

- 9205.05.04 The location of the Mixed Waste Recycling Facility(ies) to which the mixed waste was taken for processing during the previous quarter; and
- 9205.05.05 Information about changes in service such as new Customers or cancellations including Business name and address.
- 9205.05.06 The initial quarterly reporting periods shall be as follows:

Reporting Period	Due Date
January 1 – March 31	May 1
April 1 – June 30	August 1
July 1 – September 30	November 1
October 1 – December 31	February 1

SECTION 9206. SELF RECYCLING

9206.01 Nothing in this Ordinance shall preclude any Generator from Self-Recycling Recyclable Materials generated at a place of Business or Multi-Family Residential Property. A Self-Recycler must accomplish Recycling activities and/or participate in Recycling programs, certify compliance with this Ordinance as prescribed by the General Manager, and complete and retain on-site a Self-Recycling Log listing materials and the volume or weight of material Recycled. The Self Recycling Log shall be made available to the General Manager or General Manager’s designee upon request. At a minimum, the Generator shall provide the following information on the Self-Recycling Log:

- 9206.01.01 The name, address and telephone number of the Generator’s representative responsible for certification.
- 9206.01.02 For Source Separated Recycling, a list of the types of Recyclable Materials generated and managed.
- 9206.01.03 For Mixed Waste Processing, the amount of volume or weight of Solid Waste delivered to a Mixed Waste Processing Facility.
- 9206.01.04 The name and address of the Recycling Facility or Mixed Waste Recycling Facility used.
- 9206.01.05 The Generator shall maintain receipts supporting information provided on the District’s Self-Recycling Log and documenting that the Generator’s Recyclable Materials have been properly delivered, as well as any documentation evidencing an event which prevented the proper delivery

of Recyclable Materials. Such documents shall be provided to the District within ten (10) days of a request by the General Manager, or designee. Additionally, these documents will be made available for inspection by the General Manager, or designee, at the place of business during normal business hours and maintained for not less than three years.

9206.02 The General Manager may restrict or prohibit Self-Recycling by a Generator if the General Manager determines, after providing notice and an opportunity for a hearing, that the Generator's Self Recycling activities violate the provisions of this Section or any other applicable law, ordinance or regulation.

9206.03 Sale or Contribution. Nothing in this Ordinance shall preclude any Generator from selling or exchanging at fair market value, for reuse or Recycling, Source Separated Recyclable Materials generated from that Business, Commercial Facility or property in compliance with exclusive Franchise Agreement between the District and CR&R.

9206.04 Donation or Gift. Nothing in this Ordinance shall preclude any Generator from donating or gifting to a non-profit agency, for reuse or Recycling, Source Separated Recyclable Materials generated from that Business, Commercial Facility or property in compliance with exclusive Franchise Agreement between the District and CR&R. Receipts for donated or gifted recyclables shall still be provided per Section 9206.01.05.

SECTION 9207. CERTIFICATION

9207.01 Any Business that does not subscribe to a Source Separated Recycling Service or Mixed Waste Processing Service with the designated Franchised Hauler, or has otherwise complied with the conditions of an approved exemption, shall certify annually by the method prescribed by the General Manager that the Business; (i) is exempt from the Recycling provisions of this Ordinance; or (ii) has documented the implementation of its Recycling activities and/or Recycling program participation.

SECTION 9208. OWNERSHIP/SCAVENGING OF RECYCLABLE MATERIALS

9208.01 All Recyclable Materials placed in containers for Recyclable Materials provided by any Franchised Hauler shall be considered owned by and be the responsibility of the Franchised Hauler. Without permission of the Franchised Hauler, no person shall collect Recyclable Materials placed in such containers by Customers or Generators.

9208.02 All Recyclable Materials placed in Recyclable Materials containers provided or owned by the Generator, shall be considered owned by and be the responsibility of that Generator until the material is placed at a Franchised Hauler's designated point of Collection or

in containers described in Section 4.1(b) of this Ordinance.

9208.03 No person other than the person, or Business designated by the Generator of the Recyclable Materials to collect the Recyclable Materials, shall remove or otherwise interfere with Recyclable Materials which have been placed at a designated Recycling or Recycling Materials collection location. Except as authorized under exclusive Franchise Agreement between the District and Hauler, it shall be unlawful for any person to engage in the business of collecting, removing or transporting, or otherwise organizing or directing the collection, removal or transportation of Recyclable Materials without being a Franchised Hauler.

SECTION 9209. EXEMPTIONS

9209.01 The following may be exempt from all or portions of the requirements of this Ordinance:

9209.01.01 Recyclable Materials Generators are not required to subscribe for Recycling services or Self-Recycle if the Generator certifies that there are no Recyclable Materials being generated by any activities in the Generator's Business, Commercial Facility or non-residential property.

9109.01.02 Generator may not be required to subscribe for Recycling services or Self-Recycle if the Hauler determines after a site assessment that either:

9209.01.02.01 There is inadequate storage space for automatic lift containers, bins, or roll-off bins for Recyclable Materials on-site and that it is infeasible for the Generator to share automatic lift containers, bins or roll-off bins for Recyclable Materials with a Generator on an adjoining property; or

9209.01.01.03 Compliance with this Ordinance will result in a violation of county zoning ordinances or regulations for minimum parking spaces.

9209.01.03 However, if after a site assessment, the Franchised Hauler determines that it is feasible for Recycling containers to be placed either on-site or shared with an adjoining Business or property, then the Generator will not be exempted from these requirements and will be responsible for full compliance with this Ordinance.

9209.01.04 Remote Area: Generators from a specific geographic area may not be required to comply with this Ordinance if the Franchised Hauler demonstrates, and the General Manager concurs, in writing, that a Source

Separated Recycling Service is not economically feasible within a specific geographic area.

9209.01.05 Outside Approved Franchised Areas: Generators from all areas not included within the areas delineated as Franchised Areas on the Phelan Piñon Hills Community Services District Approved Boundary Map, shall not be required to comply with this Ordinance.

9209.02 Exemption Application. If the Generator or Franchised Hauler seeks an exemption, an application for such exemption shall be submitted in the form prescribed by the General Manager. After reviewing the exemption request, and after an on-site review, if applicable, the General Manager shall either approve or disapprove the exemption request.

9209.03 *Cancellation of Recycling Service by a Franchised Hauler is not an exemption under this Ordinance.*

SECTION 9210. OTHER ACTIONS AND REMEDIES

9210.01 No Other Powers Affected. This Ordinance does not do any of the following:

9210.01.01 Otherwise affect the authority of the General Manager, or his/her designee, to take any other action authorized by any other provision of law.

9210.01.02 Restrict the power of a District Attorney or the Attorney General to bring in the name of the people of California, any criminal proceeding otherwise authorized by law.

9210.01.03 Affect in any way existing contractual arrangements, including franchises, permits or licenses, previously granted or entered into between the Franchised Hauler and County.

9210.02 **Cumulative Remedies** - Any remedy provided under this Ordinance is cumulative to any other remedy provided in equity or at law. Nothing in this Ordinance shall be deemed to limit the right of the County or its authorized collection agent(s) to bring a civil action; nor shall a conviction for such violation exempt any person from a civil action brought by the County or its authorized collection agent(s). The fees and penalties imposed under this Ordinance shall constitute a civil debt and liability owing to the County from the persons, firms or corporations using or chargeable for such services and shall be collectible in the manner provided by law.

9210.03 **Liability** - Nothing in this Ordinance shall be deemed to impose any liability upon

the District or upon any of its officers or employees, including without limitation, under the Comprehensive Environmental Response, Compensation and Liability act of 1980 (CERCLA).

SECTION 9211. FORMS, REGULATIONS AND GUIDELINES

9211.01 The General Manager may adopt necessary forms, rules, regulations and guidelines which may be necessary or desirable to aid in the administration of the provisions of this Ordinance, including all necessary policies and procedures for the issuance of the permits, administration of this Ordinance, collection of fees and bonds and/or indemnities, or proof(s) of insurance.

SECTION 9212. HAULER ENTITLED TO PAYMENT FOR SERVICES RENDERED

9212.01 The Hauler shall be entitled to payment from the Owner for services rendered and in the amounts as specified in a Resolution or Resolutions adopted by the Phelan Piñon Hills Community Services District Board.

A failure to make timely payment for any service rendered by the Hauler shall constitute a violation of this ordinance and be subject to the penalty provisions herein included.

SECTION 9213. LOCATION OF DETACHABLE BIN REQUIREMENTS

9213.01 At commercial properties serviced by the District, the detachable bin shall be placed as follows for collection:

9213.01.01 Customers adjoining an alley shall place their detachable bin adjacent to but not within the alley, unless otherwise approved by the Hauler.

9213.01.02 Customers may utilize one of established levels of collection service. Fees for different levels of service are set by resolution. In special circumstances, the General Manager or designee, may designate detachable bin location.

9213.01.02.01 Curbside: Detachable bin shall be placed at the curbside, or equivalent, or adjacent to the alley before five-thirty a.m. on collection days. Sidewalks shall not be blocked.

3213.01.02.02 Driveway: Detachable bin shall be placed adjacent to the driveway before five-thirty a.m. on collection days. Driveway clearance must be sufficient to accommodate collection equipment.

- 9213.01.03 Detachable bin located in a permanent enclosure shall be made accessible to the hauler at the designated collection time. This includes removing locks and clearing obstructions so collection vehicle can easily access detachable bin.

SECTION 9214. COLLECTION AREA

9214.01 A mandatory collection area located within the boundaries of the District, as presently constituted at time of Ordinance passage, and as amended in the future by the County Local Agency Formation Commission, is established and shall consist of:

- 9214.01.01 All multi-family units of five (5) or more.
- 9214.01.02 All developed properties classified as industrial or commercial.
- 9214.01.03 All institutional entities, such as schools and government buildings.
- 9214.01.04 All other entities determined by the hauler to be businesses.

9214.02 Other mandatory collection areas may be established by Ordinance by the District as found to be necessary for the public health and welfare or required to implement state laws.

SECTION 9215. LIABILITY FOR PAYMENT OF FEES MANDATORY COLLECTION

9215.01 Each owner, occupant or person in possession, charge or control of any collection premises located in a mandatory collection area is hereby made liable jointly and severally for the payment of the recycling collection, processing and disposal fees levied against such premises for required solid waste collection, processing and disposal services, irrespective of the actual use of the service provided by the district or grantee. Services made available to those premises required to receive such service shall be considered as services utilized. It shall be the primary duty of the owner of such premises to provide for the payment of the services.

SECTION 9216. BILLING CYCLE AND PENALTY FOR DELINQUENT PAYMENTS

9216.01 Solid waste collection fees may be billed and paid monthly. Payment shall be due upon, and shall become delinquent fifteen (15) days after the date of any billing. A finance charge and late payment penalty as permitted by law shall be added at the end of each month following the delinquency date.

SECTION 9217. DISCONTINUATION OF SERVICE

9217.01 The District or hauler may discontinue service for any customer whose account remains unpaid for sixty (60) days after the date of billing as long as the customer has received a notice on a form approved by the director of the county stating that service will be discontinued fifteen (15) days from the date of the notice if payment is not made by that time. Upon payment of the delinquent fees, collection shall resume on the next regularly scheduled collection day. Fees shall be continued to be assessed and billed notwithstanding that service has been discontinued and notice of same shall be included in the form sent to the customer.

SECTION 9218. FEE A CIVIL DEBT

9218.01 The fees levied for service for solid waste and recyclables collection shall constitute a civil debt and liability owing to the District and/or any grantee from the person using or chargeable for such services and shall be collectible in the same manner provided by law.

SECTION 9219. LIEN FOR NINETY (90) DAY DELINQUENCIES

9219.01 Mandatory collection fees authorized pursuant to this Ordinance which remain unpaid for a period of ninety (90) or more days after the date upon which they were billed may be collected thereafter by Phelan Piñon Hills Community District as provided herein.

9219.02 Once a year, the Board of Directors shall cause to be prepared a report of delinquent fees. The Board shall fix a time, date and place for hearing the report and any objections or protests thereto.

9219.03 The board shall cause notice of the hearing to be mailed to the landowners listed on the report not less than ten (10) days prior to the date of the hearing.

9219.04 At the hearing, the Board shall hear any objections or protests of landowners liable to be assessed for delinquent fees. The board may make such revisions or corrections to the report as it deems just, after which by resolution, the report shall be confirmed.

9219.05 The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the county tax assessor, on or before August 10, for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the county recorder of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem

property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of county ad valorem property taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bonafide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquency fees, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

SECTION 9220. APPEALS

9220.01 A business who desires to appeal the notice set forth in this Ordinance may appeal to the Board of Directors within the twenty (20) calendar days of the post-mark of the Warning Notice by filing a timely written appeal with the General Manager. Timely appeal shall not stay any further solid waste collection or responsibility to pay therefore. The General Manager shall set the matter for hearing before the Board of Directors and shall notify the Appellant by mail of the date set for such hearing, at least fifteen (15) days prior to said date. If the Appellant resides outside the County, the above period of notice by mail before the hearing shall be at least twenty-five (25) days. The Appellant shall have the right to appear in person or by an agent, designated in writing, at the hearing, and present oral, and/or written, evidence. The Board of Directors shall decide the appeal and shall issue its decision, which shall be in writing.

9220.02 The Board of Directors shall have authority to make reasonable adjustments in the amount billed or to excuse payment altogether as well as authority to grant ancillary relief. The Board of Directors shall have authority to determine that the Hauler shall not be entitled to any payment from the business owner affected. The Board of Directors shall have no authority to award monetary damages, costs or attorney's fees.

The Owner or person affected may appeal the decision of the Board of Directors to the Board within thirty (30) days of the mailing of the written decision of the Board of Directors.

SECTION 9221. PENALTIES

9221.01 It shall constitute an infraction for an owner as defined above to fail to sign up for or to timely pay for solid waste & recycling collection service or to otherwise violate any provision of this ordinance and upon conviction of such violation shall be subject to a fine of \$250.00 for the first offense; \$500.00 for a second violation within a one (1) year period and \$1,000.00 for a third or subsequent violation within a one (1) year period. The additional remedies, penalties and procedures for violations and for recovery of costs related to enforcement provided for in this Ordinance are incorporated herein by this reference. The owner shall also be subject to court

action to pay for solid waste collection service furnished to the business located thereon.

SECTION 9222. DISCLAIMER OF LIABILITY

9222.01 The degree of protection required by this Ordinance is considered to be reasonable for regulatory purposes. The standards set forth in this Ordinance are minimal standards and do not imply that compliance will ensure safe handling of Solid Waste and Recyclable Materials. This Ordinance shall not create liability on the part of the District, or any of its officers or employees for any damages that result from reliance on this Ordinance or any administrative decision lawfully made in accordance with this Ordinance. All persons handling discarded materials within the boundaries of the District should be and are advised to conduct their own inquiry as to the handling of such materials. In undertaking the implementation of this Ordinance, the District is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SECTION 9223. DUTIES ARE DISCRETIONARY

9223.01 Subject to the limitations of due process and applicable requirements of State or federal laws, and notwithstanding any other provisions of this Ordinance, whenever the words "shall" or "must" are used in establishing a responsibility or duty of the District, its elected or appointed officers, employees or agents, it is the legislative intent that such words establish a discretionary responsibility or duty requiring the exercise of judgment and discretion.

SECTION 9224. SEVERABILITY

9224.01 If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance.

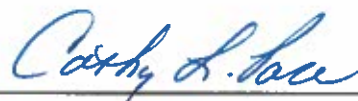
SECTION 9225. PUBLICATION AND POSTING

9225.01 The Secretary of the Board is hereby directed to cause a summary of this Ordinance to be published at least five (5) days prior to the date of adoption hereof in a newspaper of general circulation printed and a copy of the full text must be posted at the District office at least five (5) days prior to the meeting. The full text of this Ordinance must be published within ten (10) days after adoption with the names of the directors voting for and against the adoption, and must likewise be posted at the District office.

SECTION 9226. EFFECTIVE DATE

9226.01 This Ordinance No. 2017-03 adopted by the Board on December 6th, 2017, shall become effective thirty (30) days after its adoption.

APPROVED AND ADOPTED this 6th day of December, 2017.



President of the Phelan Piñon Hills
Community Services District and
of the Board of Directors thereof.

STATE OF CALIFORNIA)
)
COUNTY OF SAN BERNARDINO)


I, Kimberly Ward, Secretary of the Board of Directors of the Phelan Piñon Hills Community Services District, do hereby certify that the foregoing Ordinance, being Ordinance No. 2017-03 was duly adopted by the Board of Directors of said District at a regular meeting of said Board held on December 6th, 2017, and that it was so adopted by the following vote:

AYES: Brandon, Morrissette, Pace, Roberts, Whalen

NOES: NONE

ABSENT: NONE

ATTEST: NONE



Secretary of the Phelan Piñon Hills
Community Services District and
of the Board of Directors thereof.

SEAL