


TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL   
DATE: NOVEMBER 23, 2007

**AGENDA ITEM**  
**E-2**  
**NOV. 28, 2007**

**DISCUSS SOLID WASTE EXEMPTION POLICY**

**ITEM**

Discuss draft staff proposal re solid waste fee exemptions and set hearing to consider adoption [RECOMMEND APPROVAL].

**BACKGROUND**

District Code Section 7.01.070 (A) enables the General Manager to grant exemptions from paying the mandatory solid waste fee where the strict application of the section are deemed unjust or inequitable (See attached excerpt). Since the adoption of this provision in 2005, various General Manager's have granted a total of 18 such exemptions and approximately 10 requests have been denied, however, the criteria for granting or denying exemptions has not been consistent. In the interim, our franchisee has created various programs for reducing charges where the house is vacant or being used as a second home. Staff has developed the attached draft policy text, which establishes that property owners whose residence is either vacant or used as a secondary unit should interact directly with the franchisee, leaving the 7.01.070 process for situations that raise equity and justice issues.

**RECOMMENDATION**

Staff recommends that your Honorable Board review and edit the draft policy and then set a hearing at the December 12, 2007 Board Meeting to consider adoption of the final policy.

**ATTACHMENTS**

- Excerpt from District Code
- Draft Exemption Policy Text (without Resolution)

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NIPOMO COMMUNITY SERVICES DISTRICT  
ORDINANCE 2005-104

AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE NIPOMO COMMUNITY SERVICES DISTRICT  
IMPLEMENTING MANDATORY SOLID WASTE COLLECTION, ADOPTING DISTRICT WIDE FEES FOR SOLID WASTE  
SERVICE AND AMENDING CHAPTER 7.01 OF THE DISTRICT CODE TO  
REQUIRE WASTEWHEELER SERVICE FOR GARBAGE, RECYCLING AND GREENWASTE COLLECTION

**“Developed Properties”** means real property within the District that is developed with a building or structure, that when used is capable of generating solid waste. Developed Properties include but are not limited to occupied residential property, multi-family property and commercial property.

**“Property Owner”** means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the County Recorder’s office, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the owner.

**“Waste Wheeler”** means a covered plastic bin provided by Franchisee, varying in size and capacity equipped with wheels or casters. Such bins may be used for collection, storage and removal of solid waste.

**Section 3.**

District Code Section 7.01.070 (A), Appeals Process, is amended to read as follows:

- A. When any party, by reason of special circumstances, believes that the rules and regulations prescribed here are unjust or inequitable as applied to a particular person, place or business within the District boundaries, the applicant may make written application to the general manager stating the special circumstances, citing the provisions complained of and requesting suspension or modification of such provision or charges as applied to his or her place of business and/or premises. The general manager shall then forthwith consult with the collection service provider and cause an investigation of the conditions upon which the application is based. If after consultation with the collection service provider, the general manager finds that such provisions or charges are unjust or inequitable as applied to the applicant’s place or premises within the specified area, the general manager may suspend or modify the provision or charge complained of as applied to such place or premises, so long as the modification does not materially affect the franchise agreement, to be effective as of a date specified and to continue during the period of the special circumstances so found.

**Section 4.**

District Code Section 7.04.030, Solid Waste Disposal Frequency, is amended to read as follows:

**7.04.030 Solid Waste Disposal Frequency**

- A. Except as provided in subsection B of this section, all solid waste created, produced or accumulated on Developed Properties shall be removed from the property on a weekly basis.
- B. All solid waste created, produced or accumulated at or about any restaurant, retail or wholesale market, food processing facility, hotel, motel or other business establishment where food is sold, prepared or served,



**NCS D POLICY REGARDING**  
**PROCESSING OF SOLID WASTE APPEAL APPLICATIONS**

**Xxxxx, Yy, 200z**

Subject to Board action directing otherwise, this policy shall apply to all Solid Waste Appeal Applications submitted pursuant to Section 7.01.070 (A) of the NCS D Code:

1. All applications based on vacancy of the service address will be processed directly with the solid waste franchisee.
2. All other applications shall be in writing, filed with the District General Manager, stating the name of the applicant, the service address, applicant's residence address if different than the service address, applicant's phone number and an explanation of the grounds or special circumstances for the appeal, (including the applicable NCS D Code Section).

All applications must be signed, including a verification of the facts therein stated.

3. General principals of consideration:
  - A. All applications based on exemptions from the mandatory provisions (other than vacancies) will require the applicant to include with the application the following:
    1. \$50 dollar application fee; and
    2. Proof that the applicant will haul and deposit solid waste generated at the service address to a recognized landfill every other week (24 times per year). If the District approves the exemption, then receipts from the landfill shall be filed with the General Manager monthly, on or before the 10<sup>th</sup> day of the succeeding month.

- B. All applications based on the service address exceeding 2.5 acres shall include proof of the acreage area, to the satisfaction of the General Manager.
  - C. All approved exemptions shall be in writing and may include conditions. Failure to comply with conditions constitutes a revocation of the exemption and restoration of service, and all further applications for exemptions to the service address shall be suspended, for a one (1) year period.
  - D. Each service address is limited to one (1) application for exemption per twelve (12) month period.
4. Applicants may appeal the decision of the General Manager to the District Board of Directors, by written application filed with the General Manager within fifteen (15) days of the General Manager's written decision. The appeal will be heard within a reasonable period of time, not to exceed forty-five (45) days. Failure to comply with conditions of an exemption cannot be appealed to the Board of Directors.