

BOARD OF TRUSTEES
INCORPORATED VILLAGE OF OCEAN BEACH

LOCAL LAW NO. 05 OF 2023

A local law to amend Chapter
96 of the Village Code to
remove garbage pail limit

BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Ocean Beach, as follows:

Section 1. Section 96-7 Chapter 96 of the Village Code, entitled “Garbage, Rubbish and Refuse”, is hereby amended, enacted and added to the Village Code as follows:

§ 96-7 **Charges for collection.**

[Amended 4-26-1986 by L.L. No. 1-1986; 6-17-1989 by L.L. No. 3-1989; 6-15-1991 by L.L. No. 1-1991; 3-4-1995 by L.L. No. 3-1995; 3-13-1999 by L.L. No. 1-1999; 11-22-1999 by L.L. No. 7-1999; 1-27-2007 by L.L. No. 2-2007]

A. Number of pails and bundles allowed.

(1) Each residence or apartment in the Residence District and each residence or apartment in the Business District shall be entitled to the collection of ~~a total of three~~ thirty-two-gallon pails and one bundle of cardboard or brush as set forth herein for any one collection day. Each commercial establishment shall be entitled to the collection of ~~a total of three~~ thirty-two-gallon pails and one bundle of cardboard or brush as set forth herein for any one collection day. ~~In the event that more than three such pails and one such bundle are put out for collection by any residence, apartment or commercial establishment on any collection day, there shall be a charge for said additional pails or bundles.~~ In any case where any building or commercial establishment contains more than one apartment or separate business use, pails shall be marked to indicate the appropriate apartment or separate business use. For the purpose of this section, a rooming house, a hotel or a commercial establishment shall constitute a single entity.

(2) A "commercial establishment" is defined as a separate and distinct business entity, according to accepted accounting standards.

B. The Village of Ocean Beach has determined that the cost of garbage collection shall be financed by the imposition of contractual user fees. The Village shall establish a system of user fees to determine the appropriate rates to be charged for every parcel in the Village. Such system shall be based upon the New York State Office of Real Property Services Property Classification Codes. Such rates and system shall be set as necessary from time to time by resolution of the Village Board of Trustees. Pursuant to New York State Municipal

Home Rule Law § 10, Subdivision 1a(9-a), such user fees shall be placed as a direct assessment on the Village real property tax bills.

- C. The Board of Trustees from time to time shall also determine the appropriate charges for all bulk refuse placed for collection and such similar refuse which is not placed in pails. At least monthly, records of said additional charges shall be mailed to the property address and to the address of the record owner as listed on the Village tax assessment roll.
- D. Records; authorized collectors; applicability.
 - (1) Records of charges shall be kept by the Village Clerk based upon the records of the Sanitation Department, which records shall be presumed correct.
 - (2) Employees of the Village, or persons designated by the Board of Trustees, are the only persons authorized to collect garbage, rubbish and refuse in the Village.
 - (3) Section **96-3**, Recyclables, of this chapter shall be applicable to all properties located in the Business District.
- E. Charges for collection shall be assessed yearly and shall be placed as a direct assessment on the Village real property tax bills.
 - (1) Charges for additional pails and bundles shall be assessed against the property, and responsibility for payment of the same shall be the obligation of the property owner.
 - (2) Charges for additional pails and bundles shall be assessed yearly and shall be placed as a direct assessment on the Village real property tax bills.
- F. Charges for collections shall constitute a lien upon the real property. In the event of the failure or refusal of the owner of such property to pay any such charges when due, the unpaid amount thereof, together with interest thereon from the due date thereof, shall be included in the annual tax levy of the Village upon such property for each fiscal year, and the amount so levied shall be collected in the same manner as other Village taxes. The lien shall be prior and superior to every other lien or claim, except the lien of an existing tax or other lawful charge imposed by or for the state or a political subdivision or district thereof.
- G. Third day pickup. The Board of Trustees finds that certain properties located within the Village have a greater need of garbage collection service based upon their property classification codes, the special licenses they maintain to operate and the types of services they offer and provide. During the summer season (the Friday immediately prior to Memorial Day of each calendar year, then restarting the first Friday immediately prior to the Fourth of July and continuing every Friday thereafter and ending on the Friday immediately prior to Labor Day of each calendar year), these properties, as determined by the Village of Ocean Beach Board of Trustees, generate substantial amounts of garbage, rubbish and refuse which the regular two-times-a-week garbage collection service is not adequate to service. The properties, thus identified, become burdened with accumulations

which detract from property values and create a detriment to the health and safety of the general public and to those persons working on, in or about such properties. The Board finds that the providing of refuse collection service during those aforementioned Fridays during the summer season will enhance the value of those properties and that such an additional day of collection is a day of vital service to be provided to such properties. The Board further finds that the cost of providing said additional day of collection service shall be considered a contractual user fee and shall be imposed by the method outlined in § **96-7B** of this chapter.

Section 2. This local law shall take effect immediately upon filing with the Office of the Secretary of State.

Section 3. Authority.

The Board of Trustees of the Village of Ocean Beach is authorized to adopt this local law pursuant to Municipal Home Rule Law 10(1)(i), 10(1)(ii)(a)(6), 10(1)(ii)(a)(9-a) and 10(2).

Section 4. Severability.

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 5. New York State Environmental Quality Review Act (NYSEQRA)

The Board of Trustees hereby declares the adoption of this Local Law a Type II action, pursuant to the NYSEQRA and, therefore, no further environmental review is required.

Section 6. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.