

NOTICE is hereby given that the Highlands County Board of County Commissioners will hold a public hearing to consider for the purpose of enactment the following ordinance on September 26, 2006, at 9:00 a.m. or as soon thereafter as possible, in the County Commissioners' Board Room of the Government Center, 600 South Commerce Avenue, Sebring, Florida:

EFFECTIVE DATE: _____

ORDINANCE NO. 05-06-_____

AN ORDINANCE AMENDING SECTION 8.5-2, AMENDING PARAGRAPH (7) OF SUBSECTION (a) OF SECTION 8.5-23, AMENDING PARAGRAPH (1) OF SUBSECTION (b) OF SECTION 8.5-24, AMENDING PARAGRAPH (2) OF SUBSECTION (b) OF SECTION 8.5-24, AMENDING SUBSECTION (c) OF SECTION 8.5-25 BY ADDING A NEW PARAGRAPH (6), AMENDING SECTION 8.5-32 BY REDESIGNATING SUBSECTION (h) AS SUBSECTION (i) AND ADOPTING A NEW SUBSECTION (h), OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, PROVIDING FOR SOLID WASTE DEFINITIONS, REGULATION OF COLLECTORS, STANDARDS OF COLLECTION, RESPONSIBILITY OF PROPERTY OWNERS, AND PROHIBITED ACTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Highlands County, Florida, that:

SECTION 1. Amendment and Adoption. Section 8.5-2 of the Code of the Ordinances, Highlands County, Florida, is amended and adopted to read as follows:

Sec. 8.5-2. Definitions.

For the purpose of this chapter, the definitions contained in this section shall apply unless otherwise specifically stated. When not inconsistent to the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

Addendum to the solid waste assessment roll or the word *addendum* shall mean the list confirmed by the board each fiscal year containing the same information as the solid waste assessment roll for lots or parcels of residential property not incorporated on the corresponding solid waste assessment roll confirmed for such fiscal year because of error or omission or incorporating any changes in the information specified for any lot or parcel of residential property on the corresponding solid waste assessment roll.

Assessment date shall mean October 1 of each year, or such other date as may be designated by the Board, which date shall constitute the date on which the solid waste assessment is imposed as a lien against the residential property listed on the solid waste assessment roll or on the addendum, if any.

Assessment ordinance shall mean part III [article III] of the county solid waste collection, disposal and assessment ordinance [this chapter].

Board shall mean the Board of County Commissioners of Highlands County, Florida.

Building shall mean any structure, whether temporary or permanent, built for the support, shelter or enclosure of persons, chattel or property of any kind. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a building.

Certificate card shall mean that card which shall be issued to a person who has complied with the requirements of section 8.5-23.

Class I waste shall mean waste acceptable at a Class I solid waste management facility as defined in this chapter.

Class II waste shall mean waste acceptable at a Class II solid waste management facility as defined in this chapter.

Class III waste shall mean gypsum wallboard and combinations of horticultural trash or construction and demolition debris along with other debris such as paper, cardboard, asbestos, cloth, cut tires, glass, plastic and other like matter which may be defined by FDEP to constitute Class III waste. Mixing of Class III waste with other types of solid waste will cause the material to be classified as other than Class III waste.

Clerk shall mean the clerk of the board, or his designee.

Code shall mean the Code of Ordinances, Highlands County, Florida.

Collection ordinance shall mean part II [article II] of the county solid waste collection, disposal, and assessment ordinance [this chapter].

Collector shall mean those persons who are certified under the provisions of section 8.5-23.

Commercial collection service shall mean the collection of municipal solid waste generated by commercial property provided by a franchisee or by a person granted an exemption under section 8.5-30.

Commercial container shall mean and include any detachable receptacle or roll off box for disposal of municipal solid waste designed or intended for mechanical pickup.

Commercial property shall mean all improved property which is used for nonresidential, commercial, governmental or industrial purposes, or a multifamily dwelling unit or single-family dwelling unit which has elected to be classified as commercial property for the purpose of this chapter.

County shall mean Highlands County, a political subdivision of the State of Florida.

County administrator shall mean the chief administrative officer of the county appointed by the board, or his designee.

County landfill shall mean those sites, places or facilities operated or maintained by the county for the disposal of municipal solid waste, construction and demolition debris, extraordinary waste or sludge.

County solid waste budget shall mean the estimated cost of the operation and maintenance of the county landfills and all county solid waste operations for a fiscal year as incorporated into the annual county budget, including:

- (1) Required additions of and improvements to land or equipment;
- (2) Administrative expenses in implementation of this chapter; and
- (3) Necessary reserves for renewal and replacement, operational contingencies and required landfill closures; and
- (4) Recycling programs.

Curbside shall mean six feet from the driving surface of the roadway.

Customer shall mean the owner or occupant of improved property.

Delinquency date shall mean the date a solid waste assessment becomes delinquent under the alternative collection procedure established as provided in section 8.5-48.

Disposal charge shall mean the charge or rate established each year in the rate resolution for the disposal of categories of solid waste, construction and demolition debris, extraordinary waste and sludge at the county landfill.

Due date shall mean the due date of a solid waste assessment under the alternative collection procedure established as provided in section 8.5-48.

Enclosed roll-off compactor container shall mean a permanently enclosed metal box which does not allow odors or liquid to escape when the door is sealed, having a door

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seal that does not allow leakage, operated with a compactor mechanism, and hauled by a roll-off truck,

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FDEP shall mean the State of Florida Department of Environmental Protection.

Fiscal year shall mean 12 calendar months commencing October 1 and ending September 30.

Franchise contract shall mean the franchise awarded by the board to a collector for residential collection service within a service area pursuant to section 8.5-22 of this chapter, excluding the collection and disposal of certain types of municipal solid waste, which is collected pursuant to a county recycling program instituted pursuant to F.S. ch. 403, or its successor in function.

Franchisee shall mean a collector awarded a franchise contract by the board.

Garbage container shall mean and include any steel, plastic or galvanized receptacle, including waterproof plastic bags of heavy mil construction, which can be safely and securely closed. Receptacles shall be of the design that allows for easy lifting with two handles and of not more than 35-gallon capacity, which shall be free from jagged or sharp edges and shall be watertight and of impervious material. Such garbage container, when filled, shall not exceed 50 pounds per container. These receptacles are to have tight fitting watertight covers suitable to protect the contents from flies, insects, rats, and other animals.

Governmental property shall mean all property owned by any federal, state, county, municipal or local agencies, or any agency of such governmental unit, including school boards.

Hardship exemption shall mean the exemption from payment of the annual solid waste assessment by an owner of residential property whose gross income, when combined with the income of other occupants of such property, is less than the income exemption standard for the number of occupants of such residential property.

Improved property shall mean all residential property or commercial property containing a building that generates, or is capable of generating, solid waste.

Income exemption standard shall mean the cumulative gross income of all lawful occupants of a residential property which is equal to or less than 50 percent of the federal poverty level guidelines for the total number of occupants of such residential property.

Landfill shall mean any solid waste management facility which is the final resting or disposal place for solid waste, or is the site of solid waste storage, the majority (more than 50 percent) of which the owner or operator cannot clearly demonstrate has been recycled within the last 180 days. A surface impoundment for treatment of domestic

wastewater sludge or a landspreading site for domestic wastewater sludge is not included in this definition of landfill.

Landfills shall be classified into six different classes based on the amount and type of waste received. There are varying requirements throughout this article depending upon class of landfills. The classifications are as follows:

Class I landfills are those which receive an average of 20 tons or more of solid waste per day, as defined herein.

Class II landfills are those which receive an average of less than 20 tons of solid waste per day, as defined herein.

Class III landfills are those which receive only class III waste, as defined herein, regardless of the amount.

Natural vegetative material landfills are those which receive only horticultural trash as defined herein, and other natural, unprocessed vegetative materials generated off site, regardless of the amount.

Concrete, brick, and ceramic material landfills are those which receive only concrete (including steel reinforcing bars imbedded in concrete), cinder block, brick, and ceramic tile generated off site, not mixed with any other material and not from any structure where hazardous materials or hazardous waste are or were managed.

Motel or hotel shall mean a building, regardless of ownership, containing more than one dwelling unit designed for occupancy by a single family which contains some units customarily offered for rent on a daily basis.

Multifamily dwelling unit means a building, regardless of ownership, containing more than one dwelling unit designed for occupancy by a single family, which units are not customarily offered for rent for one day.

Occupant shall mean the person or persons occupying improved property, either the owner or other than the owner of such improved property if such person occupies the improved property with the express or implied consent of such owner.

Owner shall mean the person or persons owning improved property.

Penalty shall mean the penalties established for delinquent payment of a solid waste assessment under the alternative collection procedure established as provided in section 8.5-48.

Person shall mean any individual, partnership, firm, organization, corporation, association or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

Private landfill shall mean privately owned and operated sites, places or facilities which have been approved by the county for the disposal of natural vegetative material or concrete, brick, and ceramic material or construction and demolition debris and have all necessary state and local permits.

Property appraiser shall mean the property appraiser of the county.

Rate resolution shall mean the resolution adopted by the Board under the provisions of section 8.5-44 establishing:

- (1) The schedule of solid waste assessments to be imposed upon the owners of all residential property in the county for residential collection service; and
- (2) The disposal charge.

Real property assessment roll shall mean the assessment roll maintained by the property appraiser under law for the levy of ad valorem taxes.

Rear-door collection service shall mean a type of residential collection service rendered to residential property whereby municipal solid waste will be picked up from garbage containers placed on side or rear yards of the primary building.

Recycling program shall mean any process by which solid waste, or material which would otherwise become solid waste, is collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Recycling program shall mean a county program for the collection and disposal of certain types of municipal solid waste which is instituted pursuant to F.S. ch. 403, or its successor in function.

Residential collection payment shall mean the payment to a franchisee for the collection and disposal of municipal solid waste on residential property within a service area which a franchisee is required to serve under this chapter, calculated and payable as provided in section 8.5-26 of this chapter.

Residential collection service shall mean the collection of municipal solid waste generated by residential property provided by a franchisee, pursuant to the terms of a franchise contract, or by a person granted an exemption under section 8.5-30.

Residential dwelling unit shall mean any residence, dwelling or structure intended for use as a dwelling unit by one or more human beings, whether or not actually inhabited. The term shall include, but not be limited to, single-family residences, guest houses, mobile homes (whether registered as vehicles or assessed as real property) and each unit of duplex, triplex, quadplex, condominium, time share and apartment buildings. Each

portion of a structure used as a single-family residence shall be deemed to be a separate residentialdwelling unit.

Residential property shall mean all improved property which is intended for use as single-family dwelling units, mobile homes or multifamily dwelling units, unless such multifamily dwelling unit or single-family dwelling unit has elected to be classified as commercial property for the purposes of this chapter.

Service area shall mean a geographic residential collection area served by a franchisee pursuant to a franchise contract within boundaries established by the Board. Solid waste shall mean both municipal solid waste and special solid waste, as defined below:

- (1) *Municipal solid waste* means garbage, horticultural trash, extraordinary waste and rubbish.
 - a. *Extraordinary waste* shall mean any waste that requires additional management due to its bulk or weight and shall include, but not be limited to, automobile parts, tires, furniture, bicycles, horticultural trash greater than fifty pounds in weight or six feet in length per item, lawn mowers, white goods, and gypsum board.
 - b. *Garbage* shall mean animal, fruit and vegetable waste, either along with or in combination with other putrescible matter resulting from the handling, storage, sale, preparation, cooking, serving, processing, slaughter, manufacture or consumption of animal, fruit or vegetable matter, which is subject to decomposition or decay and any container of such material.
 - c. *Horticultural trash* shall mean shrubbery cuttings, leaf clippings and dry leaf rankings, palm fronds, tree branches, tree trunks, bushes or shrubs, green leaf cuttings, fruit, and grass usually created as refuse in the care of lawns and yards.
 - d. *Rubbish* shall mean refuse accumulation of paper, excelsior, rags, wooden or paper boxes or containers, sweepings and all other accumulations of a nature other than garbage which are usual to housekeeping and to the operation of stores, offices and other business places; also, any bottles, cans or other containers not containing garbage.
- (2) *Special solid waste* shall include hazardous waste, bio-hazardous waste, construction and demolition debris or sludge, as defined below:
 - a. *Hazardous waste* shall mean materials, or combinations of materials, which require special management techniques because of their acute or chronic effect on the air and water quality, on fish, wildlife or other biota

and on the health, safety and welfare or the public. These wastes include, but are not limited to, radioactive substances, toxic or caustic chemicals, biological wastes, flammable wastes, waste oil and explosives.

- b. *Bio-hazardous waste* shall mean those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms, including wastes resulting from the operation of medical clinics, hospitals and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, surgical gloves, and infectious/medical waste as defined in article IV of this chapter.

- c. *Construction and demolition debris* shall mean discarded materials generally considered not to be water-soluble and nonhazardous in nature including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure. If the demolition project is from a structure where hazardous materials or hazardous waste are or were managed, the debris will be considered hazardous waste and will not be considered construction and demolition debris as defined in this chapter unless tested and the results show otherwise. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project. Regulated asbestos-containing materials as defined in 40 CFR § 61.141 are excluded from the construction and demolition debris definition. Gypsum wallboard is excluded from the construction and demolition debris definition. Mixing of construction and demolition debris with other types of solid waste, including material which is not from the actual construction or destruction of a structure, will cause the waste to be classified as other than construction and demolition debris.

- d. *Sludge* shall mean any solid or semisolid or liquid generated from any water or wastewater treatment plant, air pollution control facility, septic tank, grease trap, portable toilet and related operations or any such waste having similar characteristics or effect.

Solid waste assessment shall mean the annual special assessment imposed upon a lot or parcel of residential property in a unit to pay for the cost of the collection and disposal of municipal solid waste generated or capable or being generated from such property. *Solid waste assessment category* shall mean the classification of residential property incorporated in the rate resolution for the imposition of the solid waste assessment for such residential property.

Solid waste assessment roll shall mean a list confirmed by the board each fiscal year of all lots and parcels of residential property in the county within the boundaries of a unit, containing the following information:

- (1) A summary description of each lot and parcel conforming to the description contained on the real property assessment roll;
- (2) The name and address of the owner of each lot and parcel as reflected on the real property assessment roll; and
- (3) The annual solid waste assessment imposed on each lot or parcel under the appropriate assessment category as established in the rate resolution.

Solid waste director shall mean the individual hired by the board to directly supervise the solid waste operation under the supervision of the county administrator or others designated by the board.

Tax collector shall mean the tax collector of the county.

Unit shall mean each of the county solid waste municipal service benefit units created under section 8.5-41.

Unsanitary nuisance shall mean the commission of any act or the giving of the permission for the commission of any act of keeping, maintaining, propagating or permitting the existence of any municipal or special solid waste by any person by which health or life may be threatened or impaired or by which directly or indirectly disease may be caused. The keeping of the following materials on any real property shall be considered an unsanitary nuisance: untreated and improperly treated human waste, offal, dead animals or dangerous waste materials resulting from manufacturing processes or pollutant gases and noisome odors. The creation, maintenance or causing of any conditions capable of harboring, attracting or breeding flies, mosquitoes or other arthropods and rodents capable of physical harm and transmitting diseases directly or indirectly to humans shall also be considered an unsanitary nuisance.

White goods shall mean discarded refrigerators, ranges, washers, dryers, water heaters, dishwashers, and other similar domestic and commercial appliances.

SECTION 2. Amendment and Adoption. Paragraph (7) of subsection (a) of Section 8.5-23 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to read as follows:

- (7) ~~The applicant shall obtain, maintain in force and effect, and furnish proof of insurance required from time to time by resolution of the Board. Each holder of a certification card shall furnish evidence of the insurance required from time to time by resolution of the Board prior to the certification card being renewed each year. Each policy of liability insurance shall name Highlands County as an additional insured and shall require notice to Highlands County not less than thirty days in advance of termination or cancellation.~~

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SECTION 3. Amendment and Adoption. Paragraph (1) of subsection (b) of Section 8.5-24 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to read as follows:

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- (1) *General provisions.* The franchisee shall pick up and deliver to the county landfill, in accordance with section 8.5-21, all municipal solid waste from or generated by commercial property for which the franchisee has entered into a contract for commercial collection service; provided, however, that horticultural trash shall not be commingled with other municipal solid waste. Commercial property using garbage containers shall comply with subsection (a), except that there shall be no restriction as to time of collection or day of collection for any commercial property. The size of a commercial container and the frequency of collection for commercial property shall be established by the franchisee in consultation with the customer and shall be subject to approval by the county administrator in the event of dispute; provided, however, the frequency of collection shall not be less than one per week, unless otherwise approved by the county administrator. Collections at establishments generating perishable waste shall be not less than twice per week and not more than three days apart (Sundays and legal holidays excluded), unless that perishable waste is deposited in a properly functioning enclosed roll-off compactor container for which the frequency of collection shall not be less than one per week.

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SECTION 4. Amendment and Adoption. Paragraph (2) of subsection (b) of Section 8.5-24 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to read as follows:

- (2) *Written agreements.* For commercial collection service, or where the franchisee agrees to collect special solid waste, a written agreement between the franchisee and the customer shall be entered into regarding the level and type of service to be provided, the conditions of service and the rate to be charged. Each contract for commercial collection service shall contain a provision terminating that contract on the termination of the franchisee's franchise contract. In the event of a dispute, such agreements shall be subject to the approval of the county.

Deleted: in effect on October 1, 2000

SECTION 5. Amendment and Adoption. Subsection (c) of Section 8.5-25 of the Code of Ordinances, Highlands County, Florida, is amended by the addition of a new paragraph (6) which is adopted to read as follows:

- (6) The owner of the property on which an enclosed roll-off compactor container is located shall be responsible for assuring that the enclosed roll-off compactor container is properly functioning, that a keyed switch is required to activate the compactor mechanism, and that no person other than a properly trained employee of the property owner or a properly trained employee of a business using the enclosed roll-off compactor container operates the compactor mechanism.

SECTION 6. Amendment and Adoption. Section 8.5-32 of the Code of Ordinances, Highlands County, Florida, is amended by redesignating subsection (h) as

subsection (i) and adopting a new subsection (h), and as amended, subsections (h) and (i) are adopted to read as follows:

(h) No person owning property on which an enclosed roll-off compactor container is located shall allow the compactor mechanism of that enclosed roll-off compactor container to be activated except by means of a keyed switch activated by a properly trained employee of the property owner or a properly trained employee of a business using the enclosed roll-off compactor container.

(i) A violation of any provision of this section shall be punished as provided in section 8.5-33.

SECTION 7. Severability. The sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, and sections of this Ordinance.

SECTION 8. Conflict. Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

SECTION 9. Inclusion in Code. When the text of this Ordinance is published for inclusion in the Code of Ordinances, Highlands County, Florida, the text marked for deletion by strike-through text shall be deleted and the additions appearing as underlined text shall be added so that the text of the Code shall be as amended rather than in the legislative format used in this Ordinance to highlight the changes being made.

SECTION 10. Effective Date. This Ordinance shall take effect immediately upon filing with the Department of State.

DONE AND ADOPTED this ____ day of _____, 2006.

**BOARD OF COUNTY COMMISSIONERS,
HIGHLANDS COUNTY, FLORIDA**

By: _____
Robert F. Bullard, Chairman

ATTEST:

By: _____
L.E. "Luke" Brooker, Clerk

