

AN ORDINANCE CREATING A MUNICIPAL SERVICE BENEFIT UNIT FOR LANDFILL SERVICES WITHIN THE INCORPORATED AND UNINCORPORATED AREAS OF NASSAU COUNTY, FLORIDA; ESTABLISHING THE BOUNDARIES THEREOF; ESTABLISHING A SPECIAL ASSESSMENT FOR SAID SERVICES WITHIN THE INCORPORATED AND UNINCORPORATED AREAS OF THE COUNTY; PROVIDING FOR THE ESTABLISHMENT OF MUNICIPAL SERVICES BENEFIT UNIT FOR FUTURE COLLECTION AND ADVANCE OF COUNTY FUNDS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01 (1) (q), Florida Statutes, grants the Board of County Commissioners the power to establish municipal service benefit units; and

WHEREAS, the residents of Nassau benefit from the County landfill and the landfill is a necessity; and

WHEREAS, the Board of County Commissioners has determined that it is necessary for public health, safety, and general welfare that landfill facilities be operated by a private contractor; and

WHEREAS, the Board of County Commissioners has determined that the closure of the previous landfill facilities, pursuant to State directions, will create a financial burden; and

WHEREAS, the Board of County Commissioners has conducted public hearings, and the Board created a Citizens' Advisory Committee that has also held public hearings and that concurs with the establishment of a Municipal Service Benefit Unit; and

WHEREAS, the Board of County Commissioners of Nassau County has determined that it is desirable that a Municipal Service Benefit Unit be established for the incorporated and unincorporated areas of the County to provide for the operation and closure expenses of County-wide landfills.

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

SECTION 1. DEFINITIONS

1.1 As used in this Ordinance, the following terms shall have the following meanings:

(a) "Board" means the Board of County Commissioners of Nassau County, Florida or the MSBU Board, whichever is applicable.

(b) "County" means Nassau County, Florida.

(c) "Exempt Private Property" means property which is exempt from the payment of ad valorem taxes, excluding property owned by Federal, State, or municipal governments and agencies or subdivisions thereof.

(d) "Exempt Public Property" means property which is exempt from the payment of ad valorem taxes and owned by Federal, State, or municipal governments or agencies and subdivisions thereof, which are exempt from taxation under Federal or State law.

(e) "Hazardous Waste" means materials which require special management techniques because of their acute or chronic effect on air or water quality, wildlife and other biota, and includes, but is not limited to, volatile, chemical, biological, explosive, flammable, radioactive, infectious, or toxic materials.

(f) "Improved Taxable Real Property" means all parcels of real property in the MSBU that have been improved to the point where the improvements are capable of being occupied, a permanent electric utility connection has been made, a Certificate of Occupancy has been issued, Move-On Permit issued, or it has been classified as improved by the Property Appraiser, whichever occurs first.

(g) "MSBU" means the Municipal Service Benefit Unit created by this Ordinance.

(h) "Owner" means the person or persons listed on each annual assessment roll, even though the roll may not be current as to record title.

(i) "Person" includes an individual, association, partnership, professional association, joint venture, corporation, municipality, government agency, or institution.

(j) "Solid Waste." means garbage, rubbish, trash, or other discharge solid or semi-solid materials resulting from domestic, commercial, industrial, agricultural, and governmental operations, excluding solids dissolved in sewage effluent or other water pollutants in water resources, such as suspended particles or dissolved materials in irrigation flows. As used herein, the term "solid waste" does not include hazardous waste, sludge, or like substances or abandoned vehicles.

(k) "Dwelling Unit". The term "Dwelling Unit" as used herein shall refer to any structure suitable or commonly used for residential purposes by a single family or familial group, and includes all single family residences including modular homes and mobile homes, and includes each apartment, townhouse, condominium or cooperative unit of a multi-family structure. All mobile homes shall be included in this definition whether or not a mobile home has an "RP" tag, except mobile homes of less than four hundred (400) square feet of actual floor space, which are not occupied as a dwelling on a continuing and regular basis. Further, all residences are included whether or not occupied, except mobile homes held as inventory on a sale lot by a mobile home dealer.

(l) "Commercial" means the pickup, by a hauler, of solid waste materials that are placed in a green or brown dumpster or container with a capacity of two (2) yards or more. The units/businesses utilizing said dumpster or containers shall be classified as commercial accounts and billed by the haulers as commercial. Any container of less than two (2) yards shall be

classified as a "Dwelling Unit" and assessed fifty dollars (\$50.00) per year.

(m) "Mobile Home Park" shall be a lot or parcel under single ownership or control designed and developed for the purpose of providing spaces for three (3) or more mobile homes intended to be used for temporary or permanent living facilities.

(n) "Travel Trailer and Recreational Vehicle Space" shall be a lot or parcel designed or developed for the purpose of providing spaces for two (2) or more recreational vehicle units to be used as temporary or permanent living facilities.

1.2 Reference to any office or officer includes any person authorized by law to perform the duties of such office or officer.

1.3 Unless the context otherwise requires, words in singular include the plural, and the plural include the singular; and words of masculine gender include the feminine and the neuter.

SECTION 2. CREATION OF NASSAU COUNTY MUNICIPAL SERVICE BENEFIT UNIT; BOUNDARIES AND PURPOSES

2.1 Pursuant to the powers granted to the Board by the Florida Constitution and Florida Statutes, there is hereby created a Municipal Service Benefit Unit known as the MSBU.

2.2 The boundaries and jurisdiction of the MSBU shall include all the incorporated and unincorporated areas of Nassau County.

2.3 The purpose of the Unit is to promote the health and welfare of the residents of the County by providing for the safe and effective management and disposal of solid waste generated in the incorporated and unincorporated areas of Nassau County.

SECTION 3. DURATION The MSBU shall exist until terminated by repeal of this Ordinance.

SECTION 4. GOVERNING BODY OF THE DISTRICT

4.1 The MSBU Board shall consist of the Board of County Commissioners, as provided by Section 125.01(2), Florida Statutes. The MSBU Board may have eight (8) members.

4.2 One (1) member of each City Commission within Nassau County may be appointed to the MSBU Board by the Board of County Commissioners.

SECTION 5. ADVISORY BOARD

5.1 The Governing Board may have an Advisory Board from which it may receive advice and recommendations. Said Advisory Board shall be appointed by the Board of County Commissioners after consultation with members of the MSBU Board. The number of members of the Advisory Board shall be determined by the Board of County Commissioners. The MSBU Board may provide for reimbursement of expenses for the Advisory Board. Said expenses may be paid from the assessments collected by the Board.

SECTION 6. POWERS OF MUNICIPAL SERVICE BENEFIT UNIT

6.1 The MSBU and the Governing Board shall have all the powers necessary or convenient to provide the services contemplated by this ordinance, and such powers as provided by the Constitution and laws of the State of Florida, including, but not limited to:

(a) The power to levy special assessments in substantially the same manner as ad valorem taxes are collected as provided in Florida Statutes, Chapter 170.

(b) The power to enter into contracts for the provision of services and facilities by third parties for landfill services.

(c) To issue bonds to finance the cost of projects payable from the proceeds of special assessments in the same manner as provided in Chapter 170, Florida Statutes, said bond issue shall only be with the consent of the Board of County Commissioners.

(e) Regulate and contract the use of the designated landfill areas subject to approval by the Board of County Commissioners. The MSBU Board may regulate said landfill areas by approving permits for the regulation of commercial landfill haulers.

(f) To enter into agreements with the Nassau County Property Appraiser and/or the Nassau County Tax Collector pursuant to Florida Statutes, Section 197.363, and to otherwise perform such acts as are necessary to comply with applicable laws in order to collect the special assessments levied by this Ordinance as provided for ad valorem taxes, and to collect such assessments as provided for ad valorem tax, notwithstanding anything herein to the contrary.

(g) To promulgate the rules and regulations for operation of the County landfills subject to the approval of the Board of County Commissioners.

(h) To enter into inter-local agreements with municipalities concerning providing of the any services described herein.

SECTION 7. SPECIAL ASSESSMENTS

7.1 The improvement of a parcel of real property to the extent that it is capable of being occupied is prima facie evidence that solid wastes are being generated or accumulated on such property, and the solid waste management and disposal facilities and services to be provided by the MSBU constitute an essential municipal service which will substantially benefit the property owner.

7.2 The MSBU, acting by and through its Board, shall have the power to impose special assessments upon all the improved real property within the boundaries of the MSBU, as provided by law and this Ordinance. Assessable property shall include exempt

private property, but shall not include exempt public property. Newly constructed residential or commercial property shall be assessable upon connection of permanent electric utility service or issuance of a Certificate of Occupancy or Move-On permit, whichever occurs first.

7.3 The following special assessments are hereby imposed:

(a) For each dwelling unit on a parcel: \$50.00, and said \$50.00 special assessment shall commence on August 1, 1988, and ending July 31, 1989, and the benefits to be conferred by the MSBU are deemed to be in excess of the cost hereof. The annual assessment shall be August 1 to July 31 of each year.

(b) Commercial shall be assessed to the haulers based upon:

(1) Commercial: The haulers presently operating within the County: City of Fernandina Beach, Nassau Sanitation, Stokes and Nassau Improvements shall pay to the County based upon a thirty (\$30.00) per ton charge, an amount each month for the commercial material placed in the landfill. The vehicles will be weighed on the scales at the landfill and the monthly bills shall be paid by the haulers within thirty (30) days of their receipt.

(2) Each hauler shall designate trucks for the transportation of commercial garbage only and provide the Board with a complete notarized list of their commercial accounts.

(3) Land owners that receive a special assessment bill from the Tax Collector shall, upon presentation of a notarized statement from their particular hauler verifying that they are serviced as a commercial account, be deleted from the special assessment rolls for dwelling unit parcels.

(4) The commercial assessment shall commence on June 1, 1988, and continue each and every month thereafter.

(c) Mobile home parks and travel trailer and recreational vehicle defined areas shall be assessed fifty dollars (50.00) for

each space or shall pay the commercial hauler if it utilizes containers and/or dumpsters as defined in Section 1(1).

7.4 The rate or schedule of special assessments shall be reviewed semi-annually by the MSBU Board and said rates or schedule may be changed by Resolution adopted by the MSBU Board.

7.5 Upon adoption of the rate or schedule of assessment, the Tax Collector shall cause a special assessment roll to be prepared, containing a summary description of each parcel of improved real property, the name and address of the owner, a parcel number, and the amount of the assessment. Said roll shall conform, to the extent possible, with the listing and classification of parcels on the annual property assessment roll prepared by the County's Property Appraiser.

7.6 The MSBU Board shall review and approve the special assessment roll as prepared, making such changes and additions as the Board deems appropriate to conform with the rate or schedule adopted by the Board.

7.7 The MSBU Board shall have the power to hear and adjudge protests based upon errors or omissions in the imposition of an assessment on, or in the classification of any parcel, provided a request for hearing is first made in writing to the Board stating the grounds for protest.

7.8 For property improved after the effective date of the Property Appraiser's property assessment roll, for which a Building Permit or Move-On permit are issued or a permanent electric utility connection made prior to the effective date of the next property assessment roll, a pro-rated assessment shall be imposed for the period from the date of such connection or Certificate through September 30th the following calendar year, based upon the current rate of assessment. Such assessments shall be collected by the County and Cities prior to

and as a condition of issuance of the Certificate or the permanent electrical connection, whichever occurs first.

7.9 If it is discovered that any special assessment has been omitted from the assessment roll, the assessment which would have been due for the fiscal year in which the omission was discovered and the preceding year may be added to the assessment for the ensuing fiscal year.

7.10 The special assessments provided for hereby shall not include services or facilities for the disposal of any hazardous, infectious or toxic waste, "white" goods as they are commonly known, or junked or abandoned vehicles, except as expressly provided by the Board.

SECTION 8. COLLECTION AND ENFORCEMENT OF ASSESSMENTS

8.1 Special assessments for each dwelling unit shall be imposed as of August 1, 1988, and are due and payable beginning on August 1, 1988, and delinquent on September 1, 1988.

8.2 The assessments provided for herein shall constitute liens against the property subject thereto from August 1, 1988, until fully paid and discharged, or barred by law. Such liens shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in or to the real property involved, except liens for ad valorem taxes.

8.3 If the ad valorem method of collection is adopted pursuant to Section 197.363, Florida Statutes, each assessment shall than be collected and enforced as ad valorem taxes are collected and enforced, and subject to all collection provisions of Chapter 197, Florida Statutes, including provisions related to discounts, payment by installment, penalty for delinquency, and issuance of tax certificates and tax deeds for non-payment. If any MSBU special assessment lien becomes delinquent by not being fully paid by October 1 of the year for which the MSBU special

assessment is imposed and remains delinquent, the Clerk, upon receipt of the lists of outstanding and uncollected MSBU special assessments for such year from the tax collector, shall cause to be prepared a Notice of Lien containing the amount of the delinquent special assessment including the amount of applicable interest, a legal description of the real property against which the lien is imposed and the name of the owner of such real property as indicated on the real property assessment roll maintained by the property appraiser. The Notice of Lien shall be recorded in the public records of the County.

8.4 If the ad valorem tax method of collection is not adopted, assessments shall be collected and enforced as follows:

(a) The special assessment shall be assessed against the owner and the parcel as listed on the Property Appraiser's Assessment roll, regardless of occupancy. Each person against whom an assessment is made shall be given written notice by U. S. Mail, addressed the same as the ad valorem tax notices, of the amount of the assessment, the dates when due and delinquent.

(b) A second notice of each special assessment shall be mailed to the owner of each parcel which has not paid the applicable assessment on or before September 1 of the fiscal year for which imposed, stating the amount of the assessment, the date delinquent and the delinquency penalties, including the lien rights and that the property is subject to foreclosure and costs.

(c) All special assessments shall bear an initial penalty equal to 3.0% of the assessment if not paid by September 31 of the fiscal year for which assessed, and an additional penalty of 1.0% per month on the delinquent principal beginning November 1 until the assessment is paid in full.

(d) Payment of special assessment by installment shall not be allowed in the same manner and form as provisions for payment

of ad valorem taxes by installment, without approval of the MSBU Board. To the extent permitted by law, the method of notice and manner of participation shall conform to like provisions for the ad valorem installment method.

(e) Liens for special assessments shall continue and remain in effect against the parcels of property for the year the assessment has been made for a period of five (5) years from October 1 of the year in which imposed, or until the assessment is paid or discharged as herein provided, whichever occurs first.

(f) On or before November 1 of each year, the tax collector shall prepare a list of outstanding and uncollected MSBU special assessments for each year and shall deliver such list to the Clerk. Such list shall contain the amount of each outstanding special assessment, a legal description of the real property against which the special assessment is imposed, and the name of the owner of such real property as indicated on the special assessment roll.

(g) After recording the Notice of Lien, a special assessment lien may be discharged by payment of the special assessment and all applicable penalties, plus a service fee of ten dollars (\$10.00), to the Clerk of the Circuit Court. Upon receipt of such payment, the Clerk shall cause evidence of satisfaction and discharge to be provided in the record.

(h) The payment of delinquent special assessments may be enforced by the Board at any time after recording of the Notice of Lien for the amount of the special assessment and all penalties, plus costs and reasonable attorney's fees by a proceeding in equity to foreclose the special assessment lien in the same manner as a mortgage foreclosure, or in any other manner authorized by law. In any such enforcement proceedings, one or more parcels may be joined in the same suit.

(i) A written certificate of the Clerk as to the amounts due on a special assessment shall be binding upon the MSBU.

(j) The Tax Collector may receive a fee for her services. The amount of the fee shall be designed to offset the administrative costs associated with the collection of special assessment billings. The MSBU Board, in consultation with the Tax Collector, shall establish the fee.

SECTION 9. COMMERCIAL

9.1 As set forth in 7.3(b), all units and businesses defined as commercial shall be charged by the haulers, and the haulers shall pay the board pursuant to the provisions set forth herein.

9.2 The haulers payment requirements to the Board are set forth in Paragraph 7.3(b). If said payments are not paid within the thirty (30) day requirement, the outstanding balance shall bear a penalty of five percent (5%) each month until paid. If the payment is not made within thirty (30) days of the date established, the hauler's privilege to use the landfill shall be suspended until the outstanding balance is paid.

SECTION 10. USE OF FUNDS

10.1 A separate fund shall be established for all MSBU revenue, to be known as the Service Fund, which funds shall only be expended for the provision of solid waste management and disposal services or facilities.

10.2 The separate fund shall be administered by the Clerk of the Court in his capacity as Chief Financial Officer of the County.

10.3 Nothing contained herein shall prevent the County from expending its own funds, in addition to those of the MSBU, for the purposes hereof. The Board is expressly authorized to

reserve all MSBU funds for future capital expenses or costs associated with MSBU services or facilities.

SECTION 11. INDIGENT RELIEF

11.1 It shall be the policy of the Governing Body of the District that the liens for non-payment of special assessments shall not result in the loss of the property of an indigent property owner solely by reason of lien foreclosure.

11.2 The governing body of the District shall reserve sufficient of the anticipated revenues from special assessments in each fund to provide for special assessments upon the homestead property owners who are indigent.

11.3 An application made under oath by the property owner demonstrating his indigency must be presented to the governing body of the District in order for the Board to consider said application. All determinations of indigency shall be made by the Board pursuant to reasonable and non-discriminatory standards adopted and published by the Board.

SECTION 12. CONSTRUCTION This Ordinance shall be deemed to be cumulative and supplemental and in addition to any other act, law, or ordinance relating to municipal service taxing or benefit units; provided, however, that this Ordinance shall supersede and repeal any existing ordinance, special law, or County regulation which is in direct conflict herewith, to the extent of such conflict. The provisions of this Ordinance shall be liberally construed in order to effectively carry out its purpose in the interest of the public health, safety, and welfare of the citizens of Nassau County and the State of Florida.

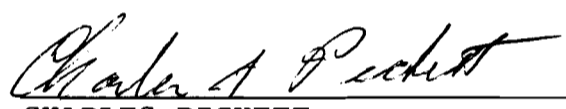
SECTION 13. SEVERABILITY If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held or declared to be unconstitutional, invalid, or void, such holding or invalidity shall not affect the remaining

portions of this Ordinance, after the exclusion of such part or parts, shall be deemed to be valid, as if such part or parts had not been included herein. If this Ordinance or any provision hereof shall be held inapplicable to any person, group of persons, property, or king of property, circumstances or set of circumstances, such holding shall not affect the application hereof to any other person, property, or circumstance.

SECTION 14. A certified copy of this Ordinance shall be filed in the Office of the Secretary of State within ten (10) days after enactment, and this Ordinance shall take effect upon such filing.

DONE AND ADOPTED in special session this 29th day of March, 1988.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



CHARLES PICKETT
Its: Chairman

ATTEST:



T. J. GREESON
Its: Ex-Officio Clerk