

NASSAU COUNTY, FLORIDA

ORDINANCE NO. 96- 12

AN ORDINANCE OF NASSAU COUNTY, FLORIDA REQUIRING SOLID WASTE HAULERS WHICH COLLECT RESIDENTIAL AND COMMERCIAL SOLID WASTE WITHIN THE UNINCORPORATED AREAS OF THE COUNTY TO OBTAIN A NON-EXCLUSIVE SOLID WASTE RESIDENTIAL OR COMMERCIAL HAULER PERMIT; PROVIDING DEFINITIONS; PROVIDING LEGISLATIVE DECLARATIONS; AUTHORIZING THE ISSUANCE OF SOLID WASTE RESIDENTIAL AND COMMERCIAL HAULER PERMITS; PROVIDING FOR TERMS AND CONDITIONS FOR THE ISSUANCE AND MAINTENANCE OF SOLID WASTE RESIDENTIAL AND COMMERCIAL HAULER PERMITS; AUTHORIZING THE ESTABLISHMENT OF RATES AND STANDARDS OF SERVICE FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION; ESTABLISHING A TERM FOR THE PERMITS; DECLARING THE REQUIREMENTS OF PERMIT APPLICATIONS; REQUIRING THE PAYMENT OF A PERMIT FEE; RESERVING CERTAIN POWERS TO THE COUNTY; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

ARTICLE I

INTRODUCTION

SECTION 1.01. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly otherwise requires:

"Applicant" means any Solid Waste Hauler who submits an Application for a Permit in accordance with Section 2.03 of this Ordinance.

"Application" means any Solid Waste Hauler Permit Application submitted by any Solid Waste Hauler in accordance with Section 2.03 of this Ordinance.

"Board" means the Board of County Commissioners of the County.

"Commercial Property" means any public or private place, building, or enterprise devoted in whole or in part to business purposes whether for profit or not-for-profit. Multi-family units in excess of four (4) units shall be considered commercial property. Condominium, patio homes and similar facilities where the individual units are privately owned and used for residential purposes are not commercial property within this definition unless bulk collection is used.

"County" means Nassau County, Florida.

"County Coordinator" means that person or his designee who serves as the Nassau County Coordinator.

"County Disposal Facility" means those Solid Waste Disposal Facilities owned and operated by the County or otherwise designated by the County as a County Disposal Facility.

"County Occupational License" means the method by which the County grants the privilege of engaging or managing any business, profession or occupation within the County.

"County Road System" means the road system of the County as defined in Chapter 334, Florida Statutes, or its statutory successor in function.

"Designated Place of Business" means the local business address of any Permittee more fully described in Section 3.06 of this Ordinance.

"Director" or "Director of Solid Waste" means that person or his designee who serves as the Nassau County Director of Solid Waste.

"Hazardous Waste" means solid waste, or a combination of solid wastes, which, because of quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

"Mobile Home Park" means a place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five (5) or more mobile homes.

"Ordinance" means this Solid Waste Hauler Permit Ordinance.

"Permit" means the Solid Waste Hauler Permit granted by the County Coordinator under Section 2.01 of this Ordinance.

"Permittee" means any Solid Waste Hauler who is granted a Solid Waste Hauler Permit under Section 2.01 hereof.

"Person" means any and all persons, natural or artificial, including any individual, firm or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

"Residential Property" means single family residences or multiple dwelling units of four (4) units or less. Townhouses and mobile homes not within a Mobile Home Park shall be considered residential property. Condominiums, patio houses and similar facilities where the individual units are privately owned and used for residential purposes are not commercial property within this definition unless bulk collection is used.

"Solid Waste" means garbage, rubbish, refuse, special waste or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. This term does not include Hazardous Waste or items that have been source separated for recycling purposes.

"Solid Waste Disposal Facility" means any Solid Waste management facility, whether operated by the County or other Persons, which is the final resting place for Solid Waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste. The operator of such facility must hold a current and valid operating

permit or be operating under a consent order issued by the Florida Department of Environmental Protection, its successor in function, or other comparable state or federal governmental agency.

"Solid Waste Hauler" means any Person who engages in the business of providing Solid Waste collection and disposal services for other Persons within the County, uses the County Road System to engage in such proprietary activity, and either directly or indirectly receives compensation or consideration for those services.

"Solid Waste Hauler Permit" means the Solid Waste Hauler Permit issued by the County Coordinator under Section 2.01 of this Ordinance granting the non-exclusive privilege to collect and dispose of Solid Waste from either or both Residential and Commercial Property for five years.

"Solid Waste Hauler Permit Application" means the Application submitted by any Solid Waste Hauler under Section 2.03 of this Ordinance for a Permit to provide Solid Waste collection and disposal services for either Residential or Commercial Property, or both, in the unincorporated areas of the County and to use the County Road System for such proprietary activities.

SECTION 1.02. CONSTRUCTION AND INTERPRETATION. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. Words referring to one gender shall be deemed to

include either gender. The terms "herein," "hereunder," "hereby," "hereto," and any similar terms shall refer to this Ordinance; the term "heretofore" shall mean before the effective date of this Ordinance; and the term "hereafter" shall mean after the effective date of this Ordinance.

SECTION 1.03. FINDINGS. It is hereby ascertained, determined and declared:

(A) Pursuant to Article VIII, section 1 of the Florida Constitution, and sections 125.01 and 125.66, Florida Statutes, the Board has all powers of local self-government to perform county functions in a manner not inconsistent with law and such power may be exercised by the enactment of county ordinances.

(B) Section 125.01(k)1., Florida Statutes provides enumerated legislative authorization for counties to regulate waste collection and disposal.

(C) The Board has the statutory responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all areas of the County under Chapter 403, Part IV, Florida Statutes.

(D) The Board has the further statutory responsibility for the general supervision of the roads and streets within the County Road System under the provision of Chapter 336, Florida Statutes. Such statutory responsibility includes the duty to establish new

roads, change and discontinue old roads and keep all roads in good repair.

(E) Regulation of the use of the County Road System by Solid Waste Haulers is essential for the County to maximize the effective and efficient use of the County Road System.

(F) It is in the public interest to insure that all areas of unincorporated Nassau County are adequately provided with high-quality Solid Waste collection and disposal service.

(G) It is in the public interest for the County to retain regulatory authority over Solid Waste collection and disposal, to the extent allowed by law, because of the overriding public health, safety and welfare considerations associated with the provisions of this service.

(H) It is in the public interest for the County to retain control over the use of public rights-of-way by Solid Waste Haulers to prevent interference with the public convenience, to promote aesthetic considerations, and to protect the public investment in rights-of-way property.

(I) It is in the public interest to insure that high-quality Solid Waste collection and disposal services are maintained through responsive complaint handling procedures.

(J) The granting of a Permit for a term of years will promote competition among private firms by providing for a fair return on capital investment.

(K) The granting of a Permit is an effective means of assuring that the above-described interests of the County are promoted.

ARTICLE II

SOLID WASTE HAULER PERMITS

SECTION 2.01. PERMITS AUTHORIZED. The County Coordinator is hereby authorized to issue to all Solid Waste Haulers, which meet the Permit Application requirements as more particularly described in Section 2.03 of this Ordinance, a non-exclusive Solid Waste Hauler Permit to collect and dispose of Solid Waste from either or both Residential and Commercial Property, as indicated by the Permit, within the unincorporated areas of the County. This Permit includes the right and privilege to operate and maintain a trash, garbage and refuse collection and removal service in, upon, over and across the County Road System, including but not limited to present and future streets, alleys, bridges, easements and other public places within the limits of the Permit for the purpose of collecting and disposing the trash, garbage and other refuse generated by the County's citizens, residents, inhabitants, business enterprises and other entities in accordance herewith.

SECTION 2.02. TERMS AND LIMITS OF PERMITS.

(A) All Permits issued under the authority of this Ordinance shall be extended and granted for a period of five (5) years, beginning with the date any Permit is issued by the County

Coordinator unless otherwise terminated by reason of the Permittee's violation of the terms of this Ordinance or the Permit.

(B) All Permits shall entitle the Permittee to collect and dispose of solid waste from Residential or Commercial Properties, or both, as indicated in the Permit from the entire unincorporated areas of the County on a non-exclusive basis and use the County Road System for those proprietary functions.

SECTION 2.03. SOLID WASTE HAULER PERMIT APPLICATION.

(A) All Solid Waste Haulers desiring to conduct the business of Solid Waste collection and disposal from either or both Residential and Commercial Properties within the unincorporated areas of the County shall apply for a Solid Waste Hauler Permit within thirty (30) days of the effective date of this Ordinance. The Solid Waste Hauler Permit Application shall be submitted to the Director of Solid Waste and shall contain the following information:

(1) Identify the name and Designated Place of Business of the Applicant and provide a brief description of the corporate history.

(2) Identify whether the Applicant is applying for a Permit to collect and dispose of Solid Waste from Residential or Commercial Property, or both.

(3) Identify which Solid Waste Disposal Facility the Applicant intends to use. If the Solid Waste Disposal Facility is

one other than a County Disposal Facility, the Applicant shall provide written and verifiable evidence that such facility is operating under a current and valid permit or consent order issued by the Florida Department of Environmental Protection or its successor in function or other comparable governmental agency.

(4) Provide a statement that the Applicant has adopted and will maintain and enforce a policy of non-discrimination on the basis of race, color, religion, sex, age, handicap, disability or national origin. This non-discrimination policy shall apply to employment practices of the Applicant and its provision of services.

(5) Provide a statement that the Applicant is in compliance with the performance bond or letter of credit as more fully described in and required by Section 3.04 of this Ordinance.

(6) Provide a statement that the Applicant is in compliance with the liability insurance, hold harmless and workers' compensation requirements as more fully described in Section 3.05 of this Ordinance.

(7) Provide an affidavit of the actual, or if not known, estimated cost of the investment in equipment, land, and other facilities made for the purpose of enabling the Applicant to fulfill the terms and conditions of the Permit, the Application, and this Ordinance.

(B) The County Coordinator, upon approval of the Board of County Commissioners, shall issue a Permit to any Applicant, who fulfills all the requirements outlined in Section 2.03(A) above, within thirty (30) days of receipt of the Application. Any Applicant who is denied Permit approval will be notified in writing of such denial by the County Coordinator within thirty (30) days of the Director's receipt of the Application. The written rejection shall identify the reasons for such rejection.

(C) All Permits shall indicate whether they authorize the collection and disposal of Solid Waste from either Residential or Commercial Property, or both.

(D) All Permits shall be subject to the Terms and Conditions more particularly described in Article III of this Ordinance as amended from time-to-time.

SECTION 2.04. SOLID WASTE HAULER PERMIT APPLICATION FEE.

(A) Subject to the exceptions contained in Section 2.04(B) below, the Director of Solid Waste shall not accept any Solid Waste Hauler Permit Application unless the Applicant has previously paid to the Director the Solid Waste Permit Application Fee of \$500.00 or the Application is accompanied by the payment of the Solid Waste Permit Application Fee of \$500.

(B) The Director may accept a Solid Waste Hauler Application without the payment of the Solid Waste Permit Application Fee from any Solid Waste Hauler who provides proof that, upon the effective

date of this Ordinance, it holds a valid County Occupational License to engage in the business of Solid Waste collection and disposal.

SECTION 2.05. TERMINATION OF PERMIT AND RENEWAL.

(A) In the event a Permittee performs or fails to perform any action that constitutes a violation of this Ordinance or the Permit as articulated in Section 2.05(C) hereof, the County shall have the right to serve written notice of the breach to the Permittee at its Designated Place of Business. Failure to correct such violation within fifteen (15) days of Permittee's receipt of notice shall authorize the County to immediately terminate the Permit. Upon any such termination, the Permittee shall be in specific violation of Section 2.06 hereof. If such violation is not corrected within such fifteen days notice, the County shall also have the right to collect on the performance bond or letter of credit as required by Section 3.04 hereof.

(B) No waiver by the County of any violation of the Permit or this Ordinance shall be taken or held to be a waiver of any succeeding violation of such provisions or as a waiver of any provision itself.

(C) The following shall be considered a violation of this Ordinance and any Permit issued pursuant hereto:

(1) participation in any unlawful operation of a Solid Waste hauling business as described in Section 2.06 hereof, and

(2) failure to adhere to any of the requirements articulated in Article III, Terms and Conditions, Sections 3.01 through and including 3.10, as amended from time-to-time.

SECTION 2.06. UNLAWFUL OPERATION. It shall be unlawful for any Person or Solid Waste Hauler to collect, remove, transport, or dispose of Solid Waste for others in the unincorporated area of the County without first obtaining a Permit as authorized by this Ordinance. Any such violations shall be enforced and punished in the same manner as provided in section 125.69, Florida Statutes, or its statutory successor in function.

ARTICLE III

TERMS AND CONDITIONS

SECTION 3.01. COLLECTION SERVICES AND OPERATIONS STANDARDS.

The Board shall, by subsequent resolution, establish standards for Solid Waste Collection and disposal from Residential Property. Said resolution shall establish the following standards of service as to the frequency of Solid Waste collection, the quantity of Solid Waste to be collected, the hours of collection, the location of Solid Waste for collection, the submission of routes and schedules, the existence of minimal collection equipment, the institution of uniform billing procedures. Said resolution shall also include other reasonable regulatory measures concerning the provision of Solid Waste collection and disposal by Permittees in the County.

SECTION 3.02. RATES AND CHARGES. The Board may, by subsequent resolution, establish the maximum rates and charges that each Permittee may bill and collect for its collection and disposal of Solid Waste from Residential and Commercial Properties. In the event such rate resolution is not adopted, all rates and charges imposed by the Permittee shall, at all times, be reasonable and equitable.

SECTION 3.03. COMPLAINTS. All customer complaints shall be resolved if reasonably possible within 24 hours. All Permittees shall supply the Director of Solid Waste with copies of all complaints, in a form approved by the County, and indicate the disposition of each on a semi-annual basis, July 1 and December 31 of each calendar year. Notwithstanding this complaint reporting requirement, the Permittee's complaint records shall be available for inspection, by the Director of Solid Waste, during normal business hours at the Designated Place of Business. At a minimum, the Permittee's complaint form shall identify the complaining customer, indicate the day and hour on which the complaint was received, and the day and hour on which it was resolved. When a complaint is received on the day preceding a holiday or on a Saturday or Sunday, it shall be serviced on the next working day. All Permittees shall establish procedures, acceptable to the Director of Solid Waste, to insure that all customers are notified of the complaint procedure.

SECTION 3.04. PERFORMANCE BOND. All Permittees shall provide a performance bond or irrevocable letter of credit drawn from a bank licensed to do business in the State of Florida, in the amount of \$10,000 in a form acceptable to and for the benefit of the County within 10 days from the acceptance of a Solid Waste Hauler Permit Application; said bond or letter of credit shall be maintained during the term of the Permit unless excused in writing by the County. The Board may waive or reduce the amount of the performance bond or letter of credit for any Solid Waste Hauler that has operated in the County for a minimum of 7 years. The failure of any Permittee to obtain or maintain such performance bond or letter of credit throughout any portion of the term of the Permit(s) granted hereunder shall constitute a violation of this Ordinance and the provisions of the Permit(s) and upon such a violation, the County shall have the right to proceed against the Permittee as described in Section 2.05 hereof.

SECTION 3.05. LIABILITY INSURANCE; HOLD HARMLESS; WORKERS' COMPENSATION.

(A) All Permittees shall carry public liability insurance to the extent of \$1,000,000 for the death or injury to persons and property, and comprehensive motor vehicle liability insurance to the extent of \$250,000 upon each of the trucks or other vehicles used to carry out their business under the Permits. A certificate showing that the Permittee has in force and effect the aforesaid

insurance shall be filed with the Solid Waste Hauler Permit Application and annually thereafter at least thirty (30) days prior to the date of the expiration of said policies of insurance for each year of said Permit. The aforesaid insurance shall be of such form and written by such companies as are approved by the County and licensed in the State of Florida and also shall contain an endorsement obligating the insurance company to furnish the County thirty (30) days' notice in advance of the cancellation of the insurance.

(B) Excluding any violations of this Ordinance or the Permit issued subject hereto, all Permittees shall defend, indemnify and hold harmless the County for any all claims for injunctive or equitable relief or for damages or refunds of whatsoever kind or nature arising from or in any manner connected with the issuance of the Permits hereunder or with any activities under this Ordinance, including payment of the costs of defense and reasonable attorney fees.

(C) All Permittees shall carry workers' compensation insurance on all their employees, as required by Florida law, and show proof of insurance and payment as a part of the Solid Waste Hauler Permit Application, and proof of payment of premiums thereon, to the County as requested. All such workers' compensation policies shall provide for notice by the insurer to the County at

least sixty (60) days prior to any termination, revocation or modification thereof.

(D) Any failure by Permittees to abide by the provisions in this Section shall constitute a violation of this Ordinance and the Permit issued subject hereto and shall authorize the County to proceed in the manner described in Section 2.05 hereof.

SECTION 3.06. DESIGNATED PLACE OF BUSINESS. Each Permittee shall maintain a Designated Place of Business which shall be open to the public during normal hours of business and available by telephone for the processing of complaints, payments of services, and normal inquiries and shall be located within the boundaries of the County. The permittee shall also keep all vehicles utilized by permittee at the designated place of business or alternate Nassau County location, subject to zoning requirements. The Board may, in its sole discretion, waive this requirement for Permit approval and order any conditions it may deem appropriate.

SECTION 3.07. VEHICLE CONDITION. All vehicles and other equipment which a Permittee uses in furtherance of or pursuant to its Permit shall be leak proof, packer body, or non-removable covered body and shall pass periodic safety and sanitary inspections conducted by the Director of Solid Waste. All such vehicles shall be prominently marked with the name of the Permittee and vehicle number on driver and passenger sides. Vehicle numbers

shall also be prominently marked on the front and rear of the vehicle.

SECTION 3.08. EXAMINATION OF BOOKS AND RECORDS. The County may at its option and its expense and upon reasonable notice to the Permittees, at any time within ninety (90) days after the issuance of the Solid Waste Hauler Permit examine the records of operation and accounting files, books, and records as such records relate to the maintenance of the Permit. The examination of such books, accounts, or records, or other material necessary for the determination of compliance with the terms, provisions, or requirements of the Permit shall be during regular hours of business of the Permittee and at its Designated Place of Business.

SECTION 3.09. COMPLIANCE WITH LAW. All Permittees shall conduct operations under any Permit in compliance with all applicable laws, including state, federal and County ordinance and resolution, as amended from time-to-time.

SECTION 3.10. RESERVATION OF COUNTY POWERS. No Permittee shall acquire any vested or contractual rights hereunder which would limit in any manner the County's right to amend, modify, or revoke this Ordinance. The issuance of a Permit under the authority of this Ordinance shall not be deemed to limit the County's ability to impose additional fees and charges on any Permittee nor shall the issuance of a Permit pursuant hereto limit

the County's ability power to enact future reasonable regulations applicable to Solid Waste Haulers and Permittees.

ARTICLE IV

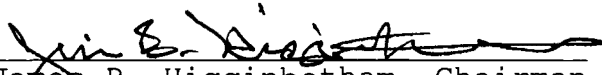
GENERAL PROVISIONS

SECTION 4.01. SEVERABILITY. If any clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Ordinance shall remain in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.


SECTION 4.02. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Florida Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and shall take effect immediately upon such filing.

DULY ENACTED this 12th day of August, 1996.

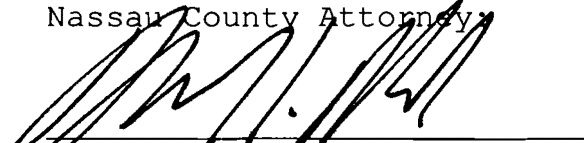
NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS

By: 
James B. Higginbotham, Chairman
Board of County Commissioners

Attest:


T.S. "Jerry" Greeson
Clerk, Nassau County, Florida

Approved as to form by the
Nassau County Attorney:


Michael S. Mallin