

ORDINANCE NO. 97-01

AN ORDINANCE AMENDING ORDINANCE 88-20, AS AMENDED BY ORDINANCE 91-17; WHICH CREATED A MUNICIPAL SERVICE BENEFIT UNIT FOR LANDFILL SERVICES WITHIN THE INCORPORATED AND UNINCORPORATED AREAS OF NASSAU COUNTY, FLORIDA; SPECIFICALLY AMENDING SECTIONS 1, DEFINITIONS; AND SECTIONS 9 THROUGH 19, PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sections 125.01 and 403.706, Florida Statutes, grant the Board of County Commissioners the power to provide and regulate solid waste collection and disposal; and

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

WHEREAS, it is necessary to amend Ordinance 91-17, to reflect the County Coordinator performing the duties that are presently designated to the Clerk for the collection of the delinquent landfill assessment; and

WHEREAS, this Ordinance is adopted under the authority and power granted the Board under Section 125.01, Florida Statutes; Chapter 403, Florida Statutes, and Section 197.3631, Florida Statutes, and other applicable laws.

NOW, THEREFORE BE IT ORDAINED this 13th day of January, 1997, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 91-17, shall be further amended as follows:

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.

(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 or combinations or materials which require special management techniques because of their acute or chronic effect on air and 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 Real Property" means all parcels of residential and commercial real property that have been improved to the point where the improvements are capable of generating garbage and solid materials.

(g) "Owner" means the person or persons owning an interest in improved real property located within the county.

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

(i) "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.

(j) "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 a "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.

(k) "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.

(l) "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.

(m) "Annual Disposal Assessment" means the annual assessment imposed upon a parcel of real property for the disposal of solid waste for the applicable year based upon the classification of use of such parcel of property as specified in the Rate Resolution.

(n) "Annual Disposal Assessment Roll" means the list prepared by the Tax Collector and confirmed by the Board each year containing a summary description of each parcel of real property within the County, the names and addresses of the owner of each such parcel as indicated on the records maintained by the Property Appraiser and the assessment authorized by the Ordinance against each parcel.

(o) "Clerk" means the Clerk of the Circuit Court of Nassau County, Florida.

(p) "Commercial Container shall mean any portable non-absorbent, enclosed container with a close fitting cover, or doors, approved by the Board, which is used to store large volumes of refuse. A commercial container must be capable of being serviced by mechanical equipment.

(q) "Commercial Rubbish and Trash" shall mean combustibles such as paper, wood and yard trimmings, and non-combustibles such as metal, plastic, glass, stone, and dirt, generated by commercial establishments. This item shall not include garbage, as herein defined.

(r) "Commercial Solid Waste" shall mean garbage, rubbish, and trash resulting from the normal activities of commercial establishments.

(s) "Construction Materials" shall mean the wood, masonry, metal, dirt and other debris which are the direct by-products of construction activities discarded by builders, developers, contractors, and the like, but which shall contain no garbage or waste material which shall putrescible or fall within the term "garbage" as herein defined.

(t) "Duplex Residence" shall mean and include an attached two (2) family structure designed or intended for occupancy by two (2) families or households.

(u) "Garbage Can" shall mean and include any cylindrical, light-gauged steeled, plastic or galvanized receptacle closed at one end and opened at the other, furnished with a tight fitting top or lid and appropriate lifting handles, not more than thirty two (32) gallons capacity and not weighing more than forty (40) pounds when full.

(v) "Governmental Agency" means any local, state, or federal agency.

(w) "Hazardous Material" shall mean garbage, rubbish, trash, or other solid, semi-solid or liquid wastes which are hazardous by reason of pathological, explosive, radiological, toxic or corrosive characteristics and which are defined as hazardous wastes by the U.S. Environmental Protection Agency (EPA).

(x) "Horticulture Trash or Trash" shall mean shrubbery cuttings or clippings, palm fronds, small tree branches, (not to exceed four (4) feet in length and four (4) inches in diameter), bushes or shrubs, or other organic matter generated as refuse in

the care of lawns, gardens, hedges, bushes, and trees. Large branches, trees, or bulky non-combustible materials not susceptible to normal loading and collection in "load packer" type sanitation equipment used for regular collection from domestic households are not included in this definition.

(aa) "Property Appraiser" means the Property Appraiser of Nassau County, Florida.

(bb) "Residential" shall mean and include a detached single family structure designed for occupancy by one person or by one family. Each mobile home and trailer shall be deemed a "residence". Each unit of a duplex residence, condominium and apartment shall be deemed a single family structure and residential.

(cc) "Residential Waste" shall mean garbage, rubbish, and trash generated by residential properties, as defined herein. It shall not include hazardous wastes as defined herein.

(dd) "Solid Waste Disposal and Resource Recovery System or Systems" - The "System" shall include, by way or enumeration and not by limitation, County operated or contracted active landfills, inactive or closed landfills, digesters and incinerators.

(ee) "Special Materials" shall mean bulky materials or other special wastes that are not stored in standard storage containers and cannot be picked up by normally used collection vehicle. Wastes such as major appliances, furniture, building materials, tree limbs, noncontainerized trash piles, and any unusually large amount of refuse not suitable for containerization will be picked up as a

special service of Grantee and billed separately to the customer on the basis of labor, truck costs, and dumping charges.

(ff) "Special Wastes" means any wastes that require extraordinary management. They include, but are not limited to, abandoned automobiles, inoperative and discarded refrigerators, ranges, washers, water heaters, and other similar domestic and commercial appliances, used tires, waste oil, sludges, dead animals, septic tank pumpings.

(gg) "Tax Collector" shall mean the Tax Collector of Nassau County, Florida.

(hh) "Tipping Fees" means the fees and service charges fixed annually to be paid to the County for receiving and disposing of solid waste delivered to the System which may be imposed by the Board for solid waste generated inside the County or in addition to the Annual Disposal Assessments.

(ii) "Triplex Residence" shall mean and include a detached three (3) family structure designed or intended for occupancy by three (3) families or households.

(jj) "Year" means the calendar year.

(kk) "County Coordinator" shall mean the County Coordinator of Nassau County, Florida.

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 8 - ANNUAL DISPOSAL ASSESSMENT ROLL - CORRECTION

8.1 No ministerial act of omission or commission on the part of the County, Property Appraiser, Tax Collector, Board, or ~~Clerk~~ County Coordinator shall operate to defeat the levy of the Annual Disposal Assessment imposed by the Board under the provisions of this ordinance. Provided, however, any ministerial acts of omission may be corrected at any time by the officers or party responsible for them in like manner as provided under this Ordinance for performing such acts in the first place, and when so corrected, they shall be construed as valid ab initio and shall in no way affect any process of law or the enforcement of the Annual Disposal Assessment imposed under the provisions of this ordinance.

SECTION 9. COLLECTION AND ENFORCEMENT OF ASSESSMENTS

9.1 Special assessments for each dwelling unit shall be imposed as of October 1 of each year. The assessments shall be paid no later than February 16 and shall be delinquent on February 17.

9.2 The assessments provided for herein shall constitute liens against the property subject thereto from October 1 of each year 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.

~~9.4~~ 9.3 The method of collection shall be as follows:

(a) The special assessment shall be assessed against the



owner and the parcel, except as set forth in Section 7.2, 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) The Tax Collector is vested with the power to collect payments of all annual assessments for distribution to the Board. The assessment shall be delinquent on February 17 of each succeeding year.

(c) The Tax Collector shall not accept partial payments on special assessment bills.

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

(e) On or before June 1 of each year, the Tax Collector shall prepare a list of outstanding and uncollected special assessments for each year and shall deliver such list to the ~~Clerk~~ County Coordinator. Such list shall contain the amount of each outstanding 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. The ~~Clerk~~ County Coordinator shall prepare and insure that a notice of lien is recorded on all outstanding and

uncollected special assessments. The form for the lien shall be approved by the Board and the lien executed by the Chairman.

(f) 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~~ Board of County Commissioners. Upon receipt of such payment, the ~~Clerk~~ County Coordinator shall cause evidence of satisfaction and discharge to be provided in the record.

(g) The payment of delinquent special assessment 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.

(h) The Tax Collector may receive a two percent (2%) fee plus commission 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 Board, in consultation with the Tax Collector, shall establish the commission. ~~The Clerk may receive a fee for his services. The amount of the fee shall be designed to offset the administrative costs associated with the special assessment. The Board, in consultation with the Clerk shall establish the fee by Resolution.~~

~~SECTION 9.~~ SECTION 10. COMMERCIAL AND RESIDENTIAL HAULERS

~~9.1~~ 10.1 Commercial and residential haulers shall be required to pay tipping fees for the use of the County designated landfill facility. The rates shall be as established by the Board by Resolution, to be adopted each year at a regularly held public hearing. Regulations pertaining to haulers use of the facility shall be set forth by Resolution.

~~SECTION 10.~~ SECTION 11. SOLID WASTE FUND

~~10.1~~ 11.1 A fund shall be established for all solid waste revenue and utilized for solid waste disposal and resource recovery systems.

~~10.2~~ 11.2 The fund shall be administered by the Clerk of the Court in his capacity as Chief Financial Officer of the County, pursuant to direction of the Board.

~~SECTION 11.~~ SECTION 12. TIPPING FEES

~~11.1~~ 12.1 Tipping fees for the receipt and disposition by the County of solid waste from sources other than Real Property within the County and Supplemental Tipping Fees shall be collected by the County directly. In addition, in the event the annual Disposal Assessment is ever determined by a court of competent jurisdiction to be invalid, the Board of County Commissioners is hereby authorized to utilize tipping fees and authorized herein to finance operation and maintenance of the Solid Waste Disposal and Resource Recovery System and to fund all obligations under any bond resolution or trust indenture.

~~11.2~~ 12.2 Tipping fees shall be established by the Board of

County Commissioners each and every year by resolution.

~~SECTION 12.~~ SECTION 13. INDIGENT RELIEF

~~12.1~~ 13.1 It shall be the policy of the Board 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.

~~12.2~~ 13.2 The Board shall reserve sufficient funds from general revenues to provide for indigent relief.

~~12.3~~ 13.3 An application made under oath by the property owner demonstrating his indigency must be presented to the Board 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 13.~~ SECTION 14. ANNUAL DISPOSAL CHARGE TO GOVERNMENTAL AGENCIES

~~13.1~~ 14.1 All governmental Agencies owning Real Property within the County shall pay the Annual Disposal Assessment imposed under the provisions of this ordinance.

~~SECTION 14.~~ SECTION 15. APPLICABILITY OF ANNUAL DISPOSAL SERVICE CHARGE TO TAX EXEMPT IMPROVED REAL PROPERTY

~~14.1~~ 15.1 The exemption of property from taxation under Florida Statutes, Chapter 196, or any other law or Constitutional provision shall not relieve the owner of any Real Property in the County from the provisions of this Ordinance or from the imposition by the Board of the Annual Disposal Assessment applicable to such property as specified in the rate Resolution adopted under the

provisions of Section 3 of the Ordinance. The provisions of this ordinance and the Annual Disposal Assessment imposed by the Board shall be fully applicable to such real property.

~~SECTION 15.~~ SECTION 16. SPECIAL WASTE

~~15.1~~ 16.1 Special waste generated in Nassau County which cannot be handled by the County pursuant to law or permit conditions established by agencies of governments having jurisdiction over solid waste disposal shall not be delivered to the System, but shall be handled and disposed of as is or may be provided by State or Federal law or County Ordinance entirely at the expense of the person or governmental agency responsible for creating it or bringing it to the County.

~~15.2~~ 16.2 As to Special Waste which may be lawfully handled by the County, the county may incorporate in the Rate Resolution adopted under Section 3 of the Ordinance, a surcharge in addition to the Annual Assessment and Tipping Fees.

~~SECTION 16.~~ SECTION 17. CONSTRUCTION

This ordinance shall be deemed to 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 17. SECTION 18. SEVERABILITY

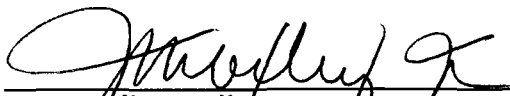
If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held or declared to be unconstitutional, invalid, or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, after the exclusion of such part or parts, shall be deemed 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 or persons, property, or kind of property, circumstances or set of circumstances, such holding shall not affect the application hereof to any other person, property, or circumstance.

SECTION 18. SECTION 19. EFFECTIVE DATE 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 ~~October 1, 1991.~~ February 1, 1997.

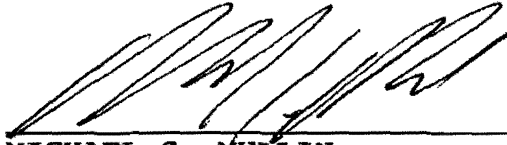
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
JOHN A. CRAWFORD  
Its: Chairman

ATTEST:

  
\_\_\_\_\_  
J. M. "CHIP" OXLEY, JR.  
Its: Ex-Officio Clerk

Approved as to form by the  
Nassau County Attorney:

A handwritten signature in black ink, appearing to read 'M. S. Mullin', is written over a horizontal line.

**MICHAEL S. MULLIN**