

ORDINANCE NO.: 2006-06

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 14 OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO SOLID WASTE COLLECTION AND RECYCLABLE MATERIALS; AMENDING SECTION 14-44 OF THE HERNANDO COUNTY CODE OF ORDINANCES TO ADD A DEFINITION FOR “UNIVERSAL COLLECTION SERVICE”; PROVIDING PROCEDURES FOR DESIGNATING UNIVERSAL COLLECTION SERVICE AREAS, AND ADJUSTING THE BOUNDARIES THEREOF, WHERE SPECIFIED SOLID WASTE, RECYCLING OR OTHER COLLECTIONS MAY BE REQUIRED; AUTHORIZING CONDITIONING OF CERTAIN RESIDENTIAL SUBDIVISION OR REZONING APPROVAL UPON DESIGNATION OF UNIVERSAL COLLECTION SERVICE AREAS FOR AFFECTED PROPERTY WITH SPECIFIED NOTICE PROCEDURES TO FRANCHISEES; PROVIDING FOR ADDITIONAL NOTICE PROTECTION IN ADVANCE OF FILING OF LIENS FOR UNPAID FEES IN UNIVERSAL COLLECTION AREAS; PROVIDING FOR SEVERABILITY AND INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

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CLERK OF COUNTY COMMISSIONERS
HERNANDO COUNTY FLORIDA

FILED

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

SECTION 1. AMENDING SECTION 14-44 OF THE HERNANDO COUNTY CODE OF ORDINANCES TO ADD A DEFINITION FOR “UNIVERSAL COLLECTION SERVICE” BY INSERTING THE UNDERLINED PARAGRAPH BELOW, SO THAT SAID SECTION SHALL READ AS FOLLOWS:

Definitions.

For the purpose of this division, the following terms shall have the meanings

ascribed to them in this section unless different meanings are clearly indicated by the context of their use:

Agreement or franchise agreement. A binding agreement between the board and a franchisee setting forth the terms, duration and other conditions for the franchise Applicant. One who desires to obtain a residential franchise or commercial license to transport or collect solid waste for hire or remuneration or other consideration in Hernando County, Florida.

Backyard composting. The composting of organic solid waste, such as grass clippings, leaves or food waste, generated by a homeowner or tenant of a single or multifamily residential unit or an apartment complex unit, where composting occurs at that dwelling unit. The maintenance of a compost pile shall not create a nuisance.

Biomedical waste. Any solid or liquid waste which may present a threat of infection to humans. The term includes nonliquid tissue and body parts from humans and other primates; laboratory and veterinary waste which contains human disease-causing agents; discarded sharps; and blood, blood products, and body fluids from humans and other primates

Board. The Board of County Commissioners of Hernando County, Florida.

Bonds. Proposal, performance, and/or payment bond and other instruments of security furnished by the contractor and his surety in accordance with the contract documents.

Bulk waste or special waste. Solid waste that may require special handling and management, and which by reason of its bulk, shape, or weight cannot be placed in a container or bundled. This waste includes, but is not limited to, furniture, mattresses, box springs, white goods (such as refrigerators, stoves, hot water heaters), waste tires, large automotive parts, or bulky metal.

Bulk waste collection service. A service to the residential customer which may be required to be provided as part of a franchise agreement; specifically, the collection of bulk or special waste.

Callbacks. The return to the customer's premises for the purpose of rendering

service based upon the customer's contention that his or her solid waste was not collected.

Commercial license or license. A license granted by the department to a solid waste collector to provide commercial service within the county at large on a free enterprise basis between the customer and solid waste collector.

Commercial service. The mechanical containerized pickup or container pickup provided by a commercial licensee to hotels, motels, roominghouses, tourist courts, travel trailer parks, campgrounds, rental mobile home developments, bungalow courts, apartment buildings with five (5) or more rental apartments, co-operative apartments, condominiums of five (5) or more units, business establishments, churches, schools, hospitals, office buildings, and any other business or commercial establishment whatsoever.

Commercial waste. Solid waste generated by stores, offices, restaurants, warehouses and other businesses, excluding residential waste from single-family or multifamily homes that pay the annual solid waste disposal assessment.

Construction and demolition debris. Discarded material generally considered to be not water soluble and nonhazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, 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, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally result from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project.

Container. A container made of non-absorbent material provided with a closely-fitting cover, side bail handles, and of forty-five (45) gallons or less gross capacity or a waterproof bag of adequate strength and material to prevent tearing or leakage. Each "container" can have a maximum weight of fifty (50) pounds.

County. The unincorporated area of Hernando County, Florida, and incorporated areas for which the municipality does not provide or regulate the solid waste collection service. Where the context of the division requires a different definition, the word "County" means Hernando County, a political subdivision of the State of Florida.

Curbside collection. Service rendered whereby solid waste is picked up from a point within six (6) feet or as near to the curb or road surface of a paved, improved or unimproved road as is safely possible.

Customer. A person directly benefitting from commercial or residential solid waste collection service as provided by this division.

Department. The county department that the board may appoint to administer and enforce this division.

Director. The director of the Hernando County Utilities Department or his authorized representative. In the event the board appoints another county department to administer and enforce this division, then the term director will mean the director of the appointed department or his authorized representative.

Disposal facility. Any solid waste disposal facility that is appropriately permitted by the Florida Department of Environmental Protection.

Franchise districts. The sanitation districts and geographical areas which are administratively identified and defined for purposes of facilitating the orderly collection, transportation and disposal of solid waste. The specified franchise district for each residential franchisee shall be set forth in the agreement.

Franchisee. Any person to whom the board has awarded a residential franchise.

Garbage. All kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

Hazardous waste. Waste, or a combination of wastes, which, because of its 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. These materials may include, but not be limited to, volatile, chemical, biological, explosive, flammable, radioactive and toxic materials.

Health unit. The Hernando County Health Unit.

Industrial waste. Solid waste generated by manufacturing or industrial processes that is not a hazardous waste. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes; electric power generation; fertilizer/agricultural chemicals; food and related products or byproducts; inorganic chemicals; iron and steel manufacturing; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins manufacturing; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment.

Landfill rate. The fee or fees charged by the county to any licensee, franchisee, or person for the disposal, dumping, or unloading of non-residential solid waste at a county-owned, operated, or designated disposal area or disposal site.

Licensee. Any person to whom the board has granted a commercial license.

Mechanical container. Any portable, non-absorbent container acceptable to the health unit which is used to store large volumes of solid waste and which is emptied by mechanical means.

Person. Any person, firm, association, organization, partnership, joint venture, corporation, business trust or company, and any officer or agent thereof.

Rear door pickup. The services rendered by a franchisee whereby the franchisee, collects from the side or rear of a dwelling unit. Any residential pickup other than curbside and bulk waste service is subject to negotiation between the customer and the franchisee.

Recyclable material. Those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

Recovered materials. Metal, paper, glass, textile, plastic or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or re-use as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal.

Residential customer. Any residential unit which volunteers to receive residential collection service, and pays the annual solid waste disposal assessment.

Residential collection service. Container pickup provided by a franchisee to any single-family, multifamily home not exceeding four (4) dwelling units under one common roof, or multifamily home that may have opted to pay the annual solid waste disposal assessment, thus allowing them to be eligible to subscribe to curbside collection. For purposes of calculating the number of dwelling units, each dwelling unit (apartment) shall constitute a separate unit.

Residential franchise. A contract awarded by the board to a collector of solid waste, pursuant to the provisions of this division, wherein the refuse collector agrees to be bound by the terms of this division and agrees to provide and is granted the right to provide the following described refuse collection services: Curbside service, bulk waste service and rear door pickup to residential premises lying within specified geographical areas of the county. The specified geographical area for each residential franchise shall be established by the board in accordance with the provisions of this division and set forth in the residential franchise. Any such residential franchise shall be subject to the provisions of this division and the rules and regulations adopted pursuant thereto.

Route. The area that is serviced by a single collection vehicle on a single day for residential collection service.

Single-family residential unit. Any building or structure designed or constructed for and capable of use as a residence for one family regardless of the type of structure, unattached to similar structures, primarily for owner occupancy, but from time to

time may be rented or leased; the term includes mobile homes, manufactured housing, or trailers. Each residential unit is assessed for solid waste disposal on the property tax bill.

Site. The location upon or in which the franchisee bases its operations.

Solid waste. Garbage, rubbish, refuse, special waste, or other discarded material, including solid or semisolid waste resulting from domestic, industrial, commercial, mining, agricultural, or government operations.

Solid waste collector. A franchisee or licensee who collects solid waste from customers for remuneration.

Truck or vehicle. Any truck, trailer, semi-trailer conveyance or other vehicle designed for and used to collect solid waste or to haul or transport solid waste upon or along paved or improved roadways.

Universal collection service. Residential collection service, recyclable material collection, yard trash collection, or other special collection as designated by the Board in developed areas delineated or described in one or more resolutions of the Board or in franchise agreements, in which areas all present and future residents are required to contract for residential collection service with the franchisee for the franchise district in which the residential property is located; or residential collection service, recyclable material collection, yard trash collection, or other special collection as designated by the Board in delineated or described undeveloped areas where the Board requires all future residents to contract for residential collection service with the applicable franchisee pursuant to section 14-46(d) and the notice provisions thereof.

Yard trash. Vegetative matter resulting from landscaping maintenance, and includes materials such as tree and shrub trimmings, grass clippings, and palm fronds.

SECTION 2. AMENDING SECTION 14-45 OF THE HERNANDO COUNTY CODE OF ORDINANCES TO PROVIDE PROCEDURES FOR DESIGNATING UNIVERSAL COLLECTION SERVICE AREAS, AND

ADJUSTING THE BOUNDARIES THEREOF, WHERE SPECIFIED SOLID WASTE, RECYCLING OR OTHER COLLECTIONS MAY BE REQUIRED, BY ADDING UNDERLINED MATERIAL BELOW, DELETING STRUCK-THROUGH MATERIAL, AND RENUMBERING PARAGRAPHS INDICATED AS FOLLOWS:

Sec. 14-45. Franchise districts; universal collection service areas.

(a)

(1) Establishment of boundaries. The board of county commissioners is hereby authorized to create sanitation districts subject to the provisions of this division. Such districts may be established, merged, altered or abolished by resolution of the board, and shall serve to facilitate the orderly collection and disposal of solid waste. The boundaries of sanitation districts shall be determined by the board and may include all or part of the unincorporated areas of Hernando County.

(2) Establishment of universal collection service areas. Except when required by the Board pursuant to section 14-46(d) hereof and the notice provisions therein, the Board may designate a new universal collection service area by resolution only after a public hearing held upon giving the notice required in subsection (b) hereof for altering district boundaries. At the Board's option in expanding, altering, establishing or requiring universal collection service in any delineated or described area, the Board's resolution may require curbside recycling for specified recyclable materials in the delineated or described area under such terms or conditions as may be agreeable to the franchisee in any necessary amendment to the existing franchise agreement.

(b) Adjustment of franchise districts or universal collection service areas: public hearings. The department is charged with the responsibility of determining if a review of the number of sanitation districts ~~and/or~~, a review of the district boundaries, or a review of the boundaries of any existing universal collection service areas is needed. Said determination is to occur no less infrequently than every fifth

calendar year. Said determination may be made more frequently, if the department deems it necessary. The board shall review the number of and the boundaries of sanitation districts when the department makes the determination such a review is required. The review shall be accomplished by a public hearing after giving at least fifteen (15) days notice of a public hearing by publication one time in a newspaper of general circulation in the county. Additionally, notice of the public hearing shall be sent by first-class mail to all franchisees and licensees.

SECTION 3. AMENDING SECTION 14-46 OF THE HERNANDO COUNTY CODE OF ORDINANCES TO AUTHORIZE CONDITIONING OF CERTAIN RESIDENTIAL SUBDIVISION OR REZONING APPROVAL UPON DESIGNATION OF UNIVERSAL COLLECTION SERVICE AREAS FOR AFFECTED PROPERTY WITH SPECIFIED NOTICE PROCEDURES TO FRANCHISEES, BY ADDING UNDERLINED MATERIAL AND DELETING STRUCK-THROUGH MATERIAL, AS FOLLOWS:

Sec. 14-46. Residential solid waste collection service.

(a) Scope of services. Residential customers subject to ~~mandatory~~ universal collection service pursuant to the board-approved franchise agreement or resolution or, where applicable, voluntarily subscribing to solid waste collection service shall receive curbside and bulk collection service as follows:

(1) Curbside collection. The county shall designate the frequency of collection to be twice a week for all franchise districts.

The franchisee shall collect a limited number of containers as qualified herein of solid waste at least twice weekly, at intervals no more frequently than seventy-two (72) hours, excluding weeks which the county-designated disposal facilities are closed for a holiday, from a point within six (6) feet or as near to the curb or other paved, improved or unimproved road as is safely possible. Service shall be offered Monday/Thursday, Tuesday/Friday or Wednesday/Saturday.

The service is limited to a total of three (3) containers, bags, or bundles, or equivalent amount, per pickup. Containers and/or bags, including content, are not to exceed fifty (50) pounds each. Bundled yard trash is limited to bundles not in excess of fifty (50) pounds and four (4) feet in length. Branches or limbs cannot exceed four (4) inches in diameter.

(2) Bulk waste collection services. The franchisee shall complete any requests for bulk waste collection received from a residential customer within five (5) calendar days of receipt of the service request, or on the specific date agreed to by the franchisee and the residential customer. The annual number of bulk waste collections per household will be established in the franchise agreements.

(3) Natural disturbances. In the event of a hurricane or other natural disturbances, service may be reduced to one garbage collection a week for all franchise districts until such time as normal service can be resumed, upon approval by the department. Accumulated yard trash resulting from the said disturbance shall be removed by the franchise holder as expeditiously as possible. The franchisee is not responsible for removing yard trash quantities in excess of the established work scope.

(4) Other considerations. A reasonable interruption of service due to weather or any other cause beyond the control of the franchise holder shall not be considered a breach of the obligation of the franchise holder. A map showing routes and pickup days shall be furnished to the department.

(b) Responsibilities of consumers:

(1) Compliance with ordinance. All persons subscribing to the solid waste collection service shall comply with the below relevant provisions.

(2) Placement of solid waste containers. Except as otherwise provided, all customers shall place containers of solid waste within six (6) feet or as near to the paved, improved or unimproved roadway abutting the customer's property as safely possible, no later than 6:00 a.m. on the days designated by the franchisee for solid waste collection. Such curbside placement shall be made by customers no earlier

than 6:00 p.m. on the day prior to the day of the designated collection. Containers must be removed by the end of the day that the garbage was collected.

(3) Use of garbage and trash containers. Customers shall procure and maintain a container or containers capable of storing a maximum of forty-five (45) gallons of solid waste per container and capable of receiving and holding without leakage or escape of odors the garbage and trash generated on the customer's property. Containers must have close fitting lids on them to prevent rainwater from accumulating in and weighing down the container. All solid waste subject to containerization shall be stored in containers until disposed of pursuant to this division.

Any container used for the collection or storage of solid waste which fails to meet the standards prescribed by ordinance shall be clearly marked by the franchisee, for example but not limited to: too large, too heavy, no side handles. The franchisee must specify the manner in which the container fails to meet these requirements. Any container which fails to meet these requirements and is so marked shall be removed from service by the party furnishing it or brought into compliance, such as for example, but not by way of limitation, by transferring some of the garbage in an overweight container into a second container. Upon failure of the party furnishing the container to remove it from service after written notice by the franchisee, the franchisee shall notify the director who may order the container removed and destroyed by the county or the franchisee.

(4) Payment of fees. All persons subscribing to the collection service shall be obligated to pay a charge for solid waste collection service in amounts negotiated in the franchise agreements.

(c) Responsibility of residential franchisees. Residential franchisees shall perform all actions as may be required by the board to ensure solid waste collection service as described in this section. Where a conflict arises between provisions implied or expressed in this division and any franchise agreement between the franchisee and

the board, the provisions of the franchise agreement shall prevail. The implied or expressed provisions of this division shall be deemed incorporated in such franchise agreement as if expressly included.

(d) The Board may require by resolution that any subdivision, rezoning, master plan approval or other development order for or relating to any residential property shall be conditioned upon designation of such property as a universal collection service area. Notice of such action shall be provided by first-class mail to the franchisee for the district in which the property is located within five business days of Board action. Any franchisee objection to such action shall be filed with the Board within fifteen (15) calendar days of mailing of notice, and any such objection shall be heard at a quasi-judicial public hearing within thirty (30) calendar days thereafter. If the Board sustains the action over the franchisee's objection, the franchisee shall have any judicial remedies otherwise available under Florida law with respect to further challenge to the action. A universal collection service area shall exist pursuant to the resolution when the Board action becomes final.

SECTION 4. AMENDING SECTION 14-49 OF THE HERNANDO COUNTY CODE OF ORDINANCES TO PROVIDE FOR ADDITIONAL NOTICE PROTECTION IN ADVANCE OF FILING OF LIENS FOR UNPAID FEES IN UNIVERSAL COLLECTION AREAS, BY ADDING UNDERLINED MATERIAL AND DELETING STRUCK-THROUGH MATERIAL, AS FOLLOWS:

Sec. 14-49. Residential franchise conditions.

(a) Residential franchisee. The board may award residential franchises either through an request for proposal (RFP) process or through negotiations with existing solid waste collectors presently operating in the county. The pre-qualification of proposers will be required as a condition of the RFP.

(b) Request for proposals. When the board deems appropriate, a request for proposal to provide residential solid waste collection services may be issued in the interest of ensuring the county residents, consumers and customers are receiving the best service for the best price.

The board will assemble a committee to evaluate the proposals. The committee will consist of staff members with knowledge of solid waste disposal and collection, as well as a purchasing and contracts representative, at a minimum. The committee will make recommendations to the board.

If the board awards a franchise district, then the department must negotiate a formal franchise agreement with the successful proposer.

(c) Rejection of RFP's. The board shall have the authority to reject all proposals. In such case, the board may direct the department to negotiate franchise agreements with the current solid waste collectors operating in the county.

(1) All negotiations conducted by the department are strictly for the purpose of making a recommendation to the board. The board has the final authority to award franchises and approve agreements.

(2) All existing franchisees who meet the minimum criteria set forth by this division, shall be presented to the board. The board shall then rank, in order of preference, those firms so presented after considering such factors as past performance, equipment, customer service, recent and projected work loads of the companies, ability and willingness of management to comply with all applicable federal, state, and local laws, rules and regulations, and the character of directors, owners and managers of the company.

(3) Staff shall then negotiate a franchise agreement with each company, in the order of its ranking by the board.

(d) New franchises. Every new franchisee who desires to engage in the occupation of collecting or transporting residential solid waste in Hernando County after the

effective date of this division shall enter into a formal franchise agreement in the manner described herein.

(e) Duration of franchises. Franchises may be issued for a maximum initial period of five (5) years.

(f) Annual renewal fee. Franchisees shall be subject to an annual renewal fee as set from time to time by resolution of the board. The annual fee may be used to compensate the department for expenses incurred in administration of the provisions of this division and rules and regulations hereunder, including, but not limited to, the cost of performing annual inspections of a franchisee's collection vehicles and complaint investigations. The renewal fee is payable to the department prior to January 1 of each year.

(g) User rate structure. The user rate structure shall be determined by procedures to be negotiated and established in the franchise agreements.

(h) Billings and service:

(1) Services rendered to residential customers by the franchisee shall be governed by the service standards as established in this division and federal, state and local rules and regulations, and its franchise agreement.

(2) Customers shall be billed directly by the franchisee. Franchisees may bill for no more than three (3) months in advance. The franchisee will offer customers the option of paying their bills by electronic funds transfer or equivalent.

(3) The franchisee may discontinue service to any customer who fails to pay for solid waste collection service when due. The franchisee may take any and all steps, including, but not limited to, lien, legal complaint or other court action, to collect amounts due and, in ~~mandatory~~ universal collection service areas, to compel payment and require payment for future services, provided that no lien shall be

placed on residential property unless and until the franchisee shall have given certified mail notice to the customer, with separate certified mail notice to the owner of the property if such owner is not the customer, and thirty (30) days have passed from the mailing of such notice without payment of amounts due.

(4) Suspension of service for absences in excess of ninety (90) days shall be allowed provided the request for the suspension of service is made at least thirty (30) days in advance of the date the suspension is to be effective. The customer is not relieved of the obligation to pay for services billed prior to the required notification. Any credit due shall be made by the franchisee on the next billing. The intent of this provision is to relieve the franchisee of the obligation to issue refund checks for suspension of services that occur after the billing was rendered which included the suspension period.

(5) Franchisee shall be entitled to a lien for uncollected fees due from customers.

(i) Liability of county. Neither Hernando County nor any of its officers or employees shall be liable for or in any way responsible for the payments of any service rates or charges due the franchisee by customers.

(j) Construction with regards to commercial or industrial waste. Nothing in this division shall be construed to give the franchisee the right to collect waste from commercial or industrial establishments without a commercial license.

SECTION 5. Severability.

It is declared to be the intent of the board of county commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Inclusion in the Code.

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate designation.

SECTION 7. Effective date.

This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 2nd day of May, 2006.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: *Karen Nicolai*
KAREN NICOLAI

Clerk



By: *Diane B. Rowden*
DIANE B. ROWDEN
Chairperson

