

ORDINANCE NO. 2010-02

AN ORDINANCE OF THE COUNTY COMMISSION OF CALHOUN COUNTY, FLORIDA; RELATING TO THE PROVISION OF MANDATORY RESIDENTIAL SOLID WASTE COLLECTION SERVICES THROUGH THE USE OF SERVICE AGREEMENTS WITH INDEPENDENT CONTRACTORS; PROVIDING CERTAIN DEFINITIONS AND LEGISLATIVE FINDINGS; AUTHORIZING THE APPROVAL OF SERVICE AGREEMENTS WITH INDEPENDENT CONTRACTORS; PROVIDING FOR MANDATORY RESIDENTIAL SOLID WASTE COLLECTION; PROVIDING THE RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNERS AND OCCUPANTS; PROHIBITING THE UNAUTHORIZED COLLECTION OR DISPOSAL OF SOLID WASTE; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FOR TREATMENT OF A PUBLIC NUISANCES; PROVIDING PROCEDURE FOR ENFORCEMENT; PROVIDING THAT PROCEDURES IN ORDINANCE ARE SUPPLEMENTAL AUTHORITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

FILED
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CLERK OF COUNTY
TALLAHASSEE, FLORIDA

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

ARTICLE I

INTRODUCTION

SECTION 1.01. LEGISLATIVE FINDINGS. It is hereby ascertained, determined, and declared that:

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

(B) Pursuant to Florida Statutes, s. 403.706(1) (2009), as amended from time to time, the County has the responsibility and authority to provide for the designation and operation of Solid Waste management facilities to meet the needs of the unincorporated areas within the County.

(C) The regulation of the collection and transport of Solid Waste generated within the County provides a public purpose and promotes the health, safety, and welfare of the citizens of Calhoun County.

(D) There has been and continues to be an inordinate amount of littering and illegal dumping of Solid Waste on the public rights of way and private lands of Calhoun County, necessitating regulation of Solid Waste collection and disposal practices within the County.

(E) The Board of County Commissioners of Calhoun County finds and determines that a substantial number of residents of the County would not subscribe to Solid Waste collection and disposal service unless such service is mandatory.

(F) It is necessary for the health, welfare and safety of the citizens and residents within the unincorporated areas of Calhoun County that the services for collection and disposal of Solid Waste be regulated through the use of an exclusive Service Agreement for designated Service Areas.

(G) It is the intent of the County to require all Residential Property within the unincorporated areas of the County to have Solid Waste collected and disposed of in a proper, sanitary, and efficient manner; to provide all Persons with a sanitary and efficient means of having their Solid Waste collected and disposed of; to eliminate illegal dumping; and to promote the health, safety, and welfare of the citizens of the County.

(H) It is the intent of the County that the collection and hauling of Solid Waste shall be conducted only by those businesses authorized to do so by the County by Service Agreement, and that all disposal shall be conducted only at the County-designated Solid Waste facilities.

SECTION 1.02. DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires.

“Abandoned Property” means all tangible personal property which does not have an identifiable owner, and which may or may not be substantially operable, functioning, or have an apparent intrinsic value to the rightful owner.

“Board” means the Board of County Commissioners of Calhoun County, Florida.

“Bulk Waste” means any Solid Waste that requires additional management due to its size or weight, that weighs greater than fifty (50) pounds, and includes but is not limited to: tires, furniture such as sofas and mattresses, building materials from household activities not requiring a building permit, and similar waste that can be placed in Solid Waste truck hoppers and disposed of in an appropriate Solid Waste disposal facility.

“Construction and Demolition Debris” means materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing 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, and includes rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land

development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of Construction and Demolition Debris with other types of Solid Waste, including material from a construction or demolition site which is not from the actual construction and demolition of a structure, will cause it to be classified as other than Construction and Demolition Debris.

“Contractor” means a firm specially authorized by a Service Agreement with Calhoun County to collect, transport, and dispose of Solid Waste within Calhoun County.

“County” means Calhoun County, Florida, a political subdivision of the State of Florida.

“Department” means the Calhoun County Solid Waste Department or its successor entity. The Director of the Solid Waste Department (“Director”) shall be the County designee primarily responsible for the administration of this Ordinance.

“Electronic Waste” means, broadly, consumer electronic equipment that has been discarded, including, but not limited to, computers, computer mice, keyboards, printers, scanners, televisions, cell phones, fax machines, monitors, stereos, and electronic games.

“Extraordinary Waste” means an item of such bulk or weight so as to prevent two (2) Persons from lifting it or to require extraordinary management including, but not limited to: abandoned automobiles, boats, and tree trunks weighing more than fifty (50) pounds.

“Garbage” means animal, fruit and vegetable waste, either along or in combination with other putrescible matter resulting from the handling, storage, sale, preparation, cooking, serving or consumption of foods; which are subject to decomposition or decay. These wastes and the containers in which such items are packaged shall be contained to prevent the generation of noxious gases and odors, the breeding of flies and other insects and the feeding of rodents.

“Garbage Receptacle” means the solid waste container provided by the Contractor to all Residential Property owners for the placement and collection of Solid Waste.

“Hazardous Waste” means Solid Waste, or a combination of Solid 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 wastes shall include, but not be limited to, toxic chemicals, corrosive materials, reactive chemicals, flammable wastes, explosives and certain items found in the home including, but not limited to: pool chlorine, paint thinner, and pesticides. For the purposes of this Ordinance, Hazardous Waste also means waste material or a substance identified as a hazardous substance in the Florida Administrative Code, Florida Statutes, or other applicable law, as well as waste defined as “biomedical waste” or “biological waste” by s. 403.703, Florida Statutes.

"Industrial Waste" means any non-hazardous solid waste accumulations of metal, metal products, minerals, chemicals, rocks, building rubble, cement, asphalt, tar, oil, grease, glass, crockery, rubber, rubber tires, bottles, cans, lumber, sawdust, waste from animal packing or slaughter houses and any other non-hazardous materials which may be created by an industrial, construction, or manufacturing operation.

"Multifamily Residential Property" means Residential Property containing more than one separate residential dwelling unit designed for occupancy by a single family located in a common structure, which units are not customarily offered for rent for one day, and shall include apartments, townhouses, and condominiums.

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

"Public Nuisance" means any accumulation of Solid Waste, Abandoned Property or Hazardous Waste placed not in compliance with the regulations of this Ordinance.

"Residential Collection Service" means service to Residential Property, including Multifamily Property having four (4) or less units in a common structure, or located on a single property with the following property types: single family homes, mobile homes, multifamily residential units, condominium units, and other miscellaneous residential units.

"Residential Property" means property designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters and including Multifamily Residential Property containing four (4) units or less.

“Senior Living Quarters” means a separate dwelling unit or dwelling units located on the same parcel as the Owner’s legally homesteaded residence used to provide living quarters for one or more natural or adoptive parents, grandparents or other family members of the Owner or the Owner’s spouse. At least one occupant of the additional living quarters must be at sixty-two (62) years of age or older to qualify as Senior Living Quarters.

“Service Agreement” means an agreement executed by the County and awarded to certain Solid Waste Contractors.

“Service Area” means the areas within the territorial boundaries of unincorporated Calhoun County, which are serviced by a Solid Waste Service Agreement granted by the Board of County Commissioners.

“Sludge” means any solid or semi-solid or liquid generated from any water or wastewater treatment plant, air pollution control facility, septic tank, grease trap, portable toilet and related operations, or any such waste having similar characteristics or effect.

“Solid Waste” means, generally, any Garbage, rubbish, Yard Waste, or other semi-solid material resulting from domestic operations including refuse and other discarded solid materials and Bulk Waste, but excluding Extraordinary Waste, Hazardous Waste and Special Waste that may not be deposited at County designated Solid Waste facilities, as set forth in the Florida Administrative Code, the Florida Statutes, or other applicable law.

“Special Waste” means Solid Wastes that can require special handling and management, including, but not limited to, Construction and Demolition Debris,

Electronic Waste, Industrial Waste, Sludge, White Goods, waste tires, used oil, and lead-acid batteries.

"Vacation Residential Property" means Residential Property which is occupied not more than four months during the calendar year, is typically used for vacation/weekend/seasonal occupancy and for which the Owner does not receive a homestead exemption.

"White Goods" means large household appliances including, but not limited to: stoves, washers, dryers, dishwashers and any "Refrigerant White Goods" as further defined herein. "Refrigerant White Goods" shall mean large appliances which contain or may release any refrigerants, including, but not limited to: refrigerators, freezers, air conditioners and dehumidifiers.

"Yard Waste" means Solid Waste that is an accumulation of lawn grass, shrubbery cuttings, clippings, leaf rakings, palm fronds, tree branches, bushes or shrubs, green leaf cuttings, fruits or other vegetative matter generally created as refuse in the care of lawns and yards that does not exceed six (6) feet in length and fifty (50) pounds in weight. This does not include large branches, trees, or bulk and non-containerized material not susceptible to normal loading and collection into sanitation equipment used for regular collection from domestic households. Bundled limbs and tree trunks from tree trimmings not exceeding six (6) feet in length and weighing less than fifty (50) pounds may be placed at the curbside for residential pick-up. Loose, unbundled or untied palm fronds up to fifty (50) pounds in weight may be placed neatly at the curbside for residential pick-up.

SECTION 1.03. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "shall" or "will" are mandatory; the term "may" is discretionary; the terms "hereof," "herein," "hereto," "hereunder," and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

ARTICLE II

MANDATORY SOLID WASTE SERVICES

SECTION 2.01. SERVICE AGREEMENTS. The Board may enter into an exclusive Service Agreement with a responsible, independent Contractor for the performance of the Solid Waste collection services herein contemplated within the unincorporated areas of the County, and shall, as part of such Service Agreement, prescribe the Service Area of the Contractor, the method, frequency, times, and places of collection, the fees for such services, the billing and collection of such fees, and all other details relating to such service, not inconsistent with the terms of this Ordinance.

SECTION 2.02. MANDATORY SOLID WASTE COLLECTION.

(A) Unless exempted from the provisions of this Article or burned under a valid permit, during the term of any Service Agreement authorized by Section 2.01, all Solid Waste generated on Residential Property within the unincorporated area of the County shall be collected, conveyed, and transported to an approved Solid Waste facility by the designated Contractor.

(B) All owners and/or occupants of Residential Property shall subscribe with the Contractor for such services. The owners of all such Residential Property will be responsible for the use of such service by all occupants of the property and shall be responsible for the payment of all charges in accordance with the applicable Service Agreement. Charges for such beneficial services include the cost of collection, disposal, and administration, including the payment of any delinquent amounts owed, and may be collected pursuant to any method authorized by law, including but not

limited to, the imposition of fees collected by the Contractor or as a non-ad valorem assessment pursuant to the provisions of § 197.3632, Florida Statutes.

SECTION 2.03. RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNERS.

(A) Unless special arrangements are made with the Contractor, all owners and occupants of Residential Property within the unincorporated area of the County shall place all Garbage Receptacles within five (5) feet of the edge of the pavement abutting the Residential Property no later than 6:00 a.m. on the days designated by the Contractor for Solid Waste Collection.

(B) Garbage Receptacles shall be removed from the roadside by the end of the day on which the Solid Waste was collected.

(C) All owners of Residential Property shall be obligated to pay a charge, as determined in the Service Agreement, for Solid Waste collection and disposal services.

SECTION 2.04. UNLAWFUL DISPOSAL OF SOLID WASTE.

(A) No Person shall throw, place, or dispose, or cause to be thrown, placed or disposed, any Solid Waste in such a manner that such Solid Waste may be carried or deposited by elements upon any sidewalk, alley, street, or other public place, provided however, this Section shall not prohibit the placement of clean fill upon private land. Compost heaps shall be excluded from the provisions of this section.

(B) No Person shall throw, place or dispose, or cause to be thrown, placed or disposed, any Solid Waste of any kind into or on any of the public streets, roads, highways, bridges, alleys, lanes, thoroughfares, waters, canals, or vacant lots or lands.

(C) No Person shall throw, place or dispose, or cause to be thrown, placed or disposed, any Solid Waste of any kind upon the premises of any other Person except for processing of Yard Waste or recoverable materials at a Florida Department of Environmental Protection (FDEP)-approved facility, or as specifically authorized by the Board for the disposal of other Solid Waste.

(D) It is unlawful for any Person to collect, transport, or dispose of Solid Waste, excluding Yard Waste, whether or not for hire, remuneration, or other consideration in any form whatsoever, without first obtaining or holding a Service Agreement or a construction and/or demolition contractor's license from the State of Florida and any required permit(s) from Calhoun County.

(E) Violation of the provisions of this section of the Ordinance may be enforced in accordance with the procedures described herein.

SECTION 2.05. EXEMPTIONS.

(A) The prohibition on the collection, transportation, or disposal of Solid Waste in this Ordinance shall not apply to the collection, transportation and disposal of: (1) Hazardous Waste; (2) Special Waste; (3) wrecked, scraped, ruined or dismantled motor vehicles, boats, motor vehicle parts or other Extraordinary Waste requiring special treatment; or (4) other items which a Contractor is not required to pick-up under this Ordinance or the Service Agreement. Hazardous Waste and Special Waste shall be kept, stored or disposed of in the manner prescribed by the laws and administrative regulations of the United States and of the State of Florida and in a facility approved for such waste.

(B) The prohibition on the collection, transportation, or disposal of Solid Waste in this Ordinance shall not apply to the disposal of Solid Waste by feeding or delivering for feeding to animals, when such act is accomplished otherwise in accordance with the laws of the State of Florida.

(C) The prohibition on the collection, transportation, or disposal of Solid Waste in this Ordinance shall not apply to parcels to which a Contractor has no access, including parcels located adjacent to roads that are inaccessible to the Contractor's collection vehicles.

(D) The prohibition on the collection, transportation or disposal of Solid Waste in this Ordinance shall not apply to Vacation Residential Property, provided that the owner maintains another residence in Calhoun County which receives Solid Waste Disposal service where the Owner agrees to dispose of any Solid Waste generated by the Vacation Residential Property.

(E) The prohibition on the collection, transportation or disposal of Solid Waste in this Ordinance shall not apply to the Owner any parcel that has a direct commercial Solid Waste Contract with a Contractor. No exemption shall be granted under this paragraph unless the property Owner provides the County with a copy of its current agreement with a Contract for Solid Waste Collection services at the Owner's business and a signed affidavit stating that the Owner does not receive Residential Collection Service and intends to dispose of its Solid Waste at the business address.

(F) The prohibition on the collection, transportation or disposal of Solid Waste in this Ordinance shall not apply to Senior Living Quarters for so long as at least one

qualifying family member maintains such living quarters as his or her primary place of residence.

(G) Any person for who an exemption is applicable shall provide for the delivery of his or her Solid Waste to an appropriate disposal facility. No such Person shall place or allow the placing of his or her Solid Waste in or about any County-owned or -operated Garbage Receptacle or Commercial Container.

ARTICLE III

GENERAL PROVISIONS

SECTION 3.01. ABATEMENT OF PUBLIC NUISANCE.

(A) Any unauthorized accumulation of Solid Waste on any premises in the unincorporated area of the County for a period in excess of seven (7) days is hereby declared to be a Public Nuisance and is prohibited.

(B) Curbside placement of Solid Waste in a manner not in compliance with this Ordinance constitutes a Public Nuisance and is prohibited.

(C) The creation or maintenance of a backyard compost pile shall be considered recycling, not disposal or unauthorized accumulation.

(D) The County has the power and authority to investigate and enforce the provisions of this Ordinance with respect to all Solid Waste accumulations or placements constituting a Public Nuisance. Enforcement action may be taken against a property owner, tenant, or both, as appropriate, in accordance with the procedures as described in this Ordinance.

SECTION 3.02. ENFORCEMENT ACTION. A violation of this Ordinance shall be prosecuted as provided in section 125.69, Florida Statutes; however, in addition to or in lieu of any criminal prosecution, the County shall have the power to sue in civil court seeking recourse to any remedies available at law or equity or to use the code enforcement process as provided by Chapter 162, Florida Statutes, to enforce the provisions of this Chapter.

SECTION 3.03. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid

by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 3.04. SUPPLEMENTAL AUTHORITY. Except as expressly provided for elsewhere in this Ordinance, this Ordinance shall not be construed as repealing or superseding any Calhoun County Ordinances and consistent provisions therein, or Florida Statutes or Laws, and shall be construed as providing alternative or supplemental authority for the exercise of all powers granted and provided for herein. This Ordinance shall be read in conjunction with Section 403.706, Florida Statutes (2009) as it may be amended or renumbered from time to time.

SECTION 3.05. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Department of State within ten (10) days after enactment by the Board and the Ordinance shall take effect as provided by law.

PASSED AND DULY ADOPTED this 16th day of February, 2010.

BOARD OF COUNTY COMMISSIONERS
OF CALHOUN COUNTY, FLORIDA



ATTEST:

By: F. D. Wynn
Chairman

Spencer D. Williams
County Clerk

APPROVED AS TO FORM:

County Attorney