

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 2023-__

AN ORDINANCE RELATING TO SOLID WASTE; AMENDING SECTION 75.100, ALACHUA COUNTY CODE, UPDATING DEFINITIONS; AMENDING SECTION 75.101, ALACHUA COUNTY CODE, UPDATING THE PURPOSE AND GOALS OF RECYCLING; AMENDING SECTION 75.205, ALACHUA COUNTY CODE, ADDING REQUIRMENTS TO HELP REDUCE LITTER; AMENDING SECTION 75.206, ALACHUA COUNTY CODE, ADDING RECYCLABLE MATERIAL REQUIREMENTS; AMENDING SECTION 75.301, ALACHUA COUNTY CODE, ALLOWING THE COUNTY TO RECOVER COSTS, ADDING REQUIREMENTS TO HELP REDUCE LITTER, ADDING ABILITY FOR THE COUNTY TO REMOVE SOLID WASTE, YARD WASTE, OR BULK ITEMS AFTER NOTICE, AND ADDING RESTRICTIONS ON THE PLACEMENT OF RECEPTACLES AND BULK ITEMS; AMENDING SECTION 75.302, ALACHUA COUNTY CODE ADDING REQUIREMENTS FOR RECYCLING CONTAINER MESSAGING AND LOCATION; AMENDING SECTION 75.303, ALACHUA COUNTY CODE, ALLOWING THE COUNTY TO ESTABLISH PROCEDURES AND QUALIFICATIONS THROUGH ADDITIONAL MEANS; AMENDING SECTION 75.408, ALACHUA COUNTY CODE, GIVING DISCRETION TO THE DIRECTOR TO APPROVE OR REVOKE APPLICATIONS; AMENDING SECTION 75.409, ALACHUA COUNTY CODE, CLARIFYING THE TERM; AMENDING SECTION 75.410, ALACHUA COUNTY CODE, REMOVING THE ADMINISTRATIVE FEE; AMENDING SECTION 75.501, ALACHUA COUNTY CODE, TO ALLOW FOR A MAGISTRATE; AMENDING SECTION 75.502, ALACHUA COUNTY CODE, UPDATING WHO IS RESPONSIBLE FOR ENFORCEMENT; AMENDING SECTION 75.601, ALACHUA COUNTY CODE, REMOVING YARD WASTE, UPDATING THE TERM, STATING THAT FRANCHISE CONTRACTS SUPERCEDE CHAPTER 75 REQUIREMENTS, ALLOWING FOR AN EXCLUSIVE FRANCHISE, REMOVING UNENFORCABLE REGULATIONS; AMENDING SECTION 75.604, ALACHUA COUNTY CODE, ALLOWING FOR ALTERNATE PROCEDURES; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Florida Constitution, and §§125.01 and 125.66, Florida Statutes, the Alachua County Board of County Commissioners ("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 as may be exercised by the enactment of county ordinances; and

WHEREAS, Chapter 403, Florida Statutes, grants the county broad authority to plan and provide for solid waste management by ordinance or regulation; and

WHEREAS, the Board has adopted, by ordinance 93-19 as amended, a Solid Waste Code, codified as Chapter 75 of the Alachua County Code; and

WHEREAS, the Board desires to amend and update its Solid Waste Code, as provided herein; and

WHEREAS, the Florida Legislature has defined “Solid Waste Management” to mean the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way according to an orderly, purposeful, and planned program, which includes closure,” §403.703(37), Florida Statutes; and

WHEREAS, as provided in §403.702, Florida Statutes, the Florida Legislature, has, among other things, declared it to be a public purpose to plan for and regulate in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transportation, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare, and has provided the authority and required counties, to adequately plan and provide efficient, environmentally acceptable solid waste management; and

WHEREAS, pursuant to §403.706(1), Florida Statutes, Alachua County has the responsibility and authority to provide for the designation and operation of solid waste management facilities to meet the needs of all the incorporated and unincorporated areas within the county; and

WHEREAS, the Board finds and declares that the regulation of the collection and disposal of solid waste generated within the County serves a public purpose and promotes the health, safety and welfare of the residents of Alachua County; and

WHEREAS, the Board finds and declares that diverting solid waste from disposal through recycling serves a public purpose and promotes and protects the health, safety and welfare of the residents of Alachua County and the environment of Alachua County; and

WHEREAS, the Board finds that amending the Solid Waste Code as set forth herein will provide additional flexibility with regard to procuring and awarding one or more exclusive franchises for residential and commercial solid waste collection services, and that such additional flexibility is in the public interest and serves a public purpose by providing greater opportunities for the County to adequately plan and secure in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transportation, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; and

WHEREAS, the Board finds that it serves a public purpose and that it is in the public interest to amend Ordinance 93-19, as previously amended and codified as Chapter 75, Alachua County Code, by adoption of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

SECTION 1. Authorization and Legislative Findings. This Ordinance is authorized by Article VIII, Section 1 of the Florida Constitution, Chapters 125 and 403, Florida Statutes, and other applicable laws. The Board of County Commissioners of Alachua County ("**Board**") finds

and declares that all statements set forth in the preamble of this Ordinance are true and correct and are hereby incorporated by reference as legislative findings.

SECTION 2. Alachua County Code, Part II, Title 7, Chapter 75, Article I, Section 75.100 entitled “**Definitions**” is hereby amended as set forth below. Except as amended herein, the remainder of Section 75.100 of the Alachua County Code remains unchanged and in full force and effect.

Commercial collection service means the collection and transportation of recyclable material, yard trash, and /or solid waste from commercial property or residential properties not included in the Universal Area by ~~the owner or any other person~~ contractor or permit holder to a solid waste management facility.

Construction and demolition debris ~~means~~ shall have the meaning provided in F.S. §403.703(6). In general, construction and demolition debris includes “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, and including rocks, soils, tree remains, trees, and other vegetative matter which 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 or destruction of a structure, will cause it to be classified as other than construction and demolition debris.”

Contractor means a person authorized by contract with the board to provide residential collection service, commercial collection service, or both, in the unincorporated area of the county.

Department means the Solid Waste and Resource Recovery Department of Alachua County.

Director means the director of the ~~Division of Waste Management of the Public Works Department of Alachua County, or the designee of such person.~~

~~Division of waste management means the division of waste management within the Public Works Department of Alachua County.~~

Hazardous material means any substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety and property. This term includes hazardous waste ~~as defined in F.S. §403.703(23).~~

Hazardous waste ~~means~~ shall have the meaning provided in F.S. § 403.703(14), which states: “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.”

Industrial property means a non-residential parcel that has been assigned by the Property Appraiser to a property use code of 4000, 4100 or 4200 of the codes established by the Florida Department of Revenue in Rule 12 D-~~8~~.008, Florida Administrative Code.

Non-universal area means the portion of the unincorporated area of the county ~~as designated by the board by resolution pursuant to section 75.300 hereof~~ that is not included in the universal area.

Recovered materials ~~means~~ shall have the meaning provided in F.S. § 403.703(28), which states: “ metal, paper, glass, plastic, textile, 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 reuse 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. Recovered materials as described ~~above~~ in this subsection [F.S. § 403.703(28)] are not solid waste.”

~~Recyclable material means those materials which are capable of being reclaimed and processed for reuse and which would otherwise be processed or disposed of as solid waste.~~

Recyclable material means those ~~recovered~~ materials, ~~as defined in F.S. §403.703(7), which that~~ are capable of being recycled and which would otherwise be processed or disposed of as ~~residential or commercial~~ solid waste.

Rural collection center means a solid waste management facility designated by the director that accepts recyclable material, yard trash and other solid waste, ~~processes it~~ and transfers it for disposal at another solid waste management facility.

Solid waste management facility means any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term does not include recovered materials processing facilities which meet the requirements of F.S. § 403.7046(4), except the portion of such facilities, if any, that is used for the management of solid waste. ~~The term includes a materials recovery facility.~~

Source separated means the recovered materials are separated from solid waste at the location where the recovered materials and solid waste are generated. The term does not require that various types of recovered materials be separated from each other and recognizes de minimis solid waste, in accordance with industry standards and practices, may be included in the recovered materials. Materials are not considered source separated when two or more types of recovered materials are deposited in combination with each other in a commercial collection container located where the materials are generated and such materials contain more than ten percent solid waste by volume or weight. For purposes of this subsection, the term "various types of recovered materials" means metals, paper, glass, plastic, textiles, and rubber.

Universal area means the portion of the unincorporated area of the county as designated by the board by resolution pursuant to section 75.300 hereof, where the County's contractor collects residential solid waste at curbside from all residential property that is subject to the solid waste assessment.

SECTION 3. Alachua County Code, Part II, Title 7, Chapter 75, Article I, Section 75.101 entitled "**Findings**" is hereby amended as set forth below. Except as amended herein, the remainder of Section 75.101 of the Alachua County Code remains unchanged and in full force and effect.

(10) Diverting solid waste from disposal through recycling serves the ~~dual purpose of economical savings through a reduction in the disposal costs and protection of~~ purpose of protecting the health, safety, welfare and environment of the county.

(11) There exists a market ~~within the meaning of that term in section 403.706(21), Florida Statutes,~~ for the designated recyclable materials produced within the county.

(12) ~~Pursuant to Section 403.706(2), Florida Statutes, t~~The county adopts the ~~recycling~~following goals ~~in F.S. §403.706(2)(a) for recycling solid waste:~~

- ~~_____ a. _____ 40 percent by December 31, 2012;~~
- ~~_____ b. _____ 50 percent by December 31, 2014;~~
- ~~_____ c. _____ 60 percent by December 31, 2016;~~
- ~~_____ d. _____ 70 percent by December 31, 2018; and~~
- ~~_____ e. _____ 80 percent by December 31, 2020.~~

SECTION 4. Alachua County Code, Part II, Title 7, Chapter 75, Article II, Section 75.203 entitled “**Traffic control and admittance at solid waste management facilities**” is hereby amended as follows:

The ~~public works d~~Department shall promulgate reasonable rules and regulations for traffic control at, and admittance to, the County’s sSolid ~~w~~Waste ~~m~~Mangement ~~f~~Facilities.

SECTION 5. Alachua County Code, Part II, Title 7, Chapter 75, Article II, Section 75.205 entitled “**Disposal of construction and demolition debris**” is hereby amended as follows:

No person shall place or cause to be placed construction and demolition debris in a location that is not authorized by the board to accept construction and demolition debris or in a container, bag or other receptacle intended for the collection and disposal of other solid waste.

Any container, bag, or other receptacle used for the collection, transport, or disposal of

construction and demolition debris must be capable of safely and securely containing such debris.

SECTION 6. Alachua County Code, Part II, Title 7, Chapter 75, Article II, Section 75.206

entitled “**Unlawful use of receptacles**” is hereby amended as follows:

(a) No person shall place or cause to be placed solid waste in a container, bag, ~~recycling container~~ or other receptacle not owned by such person or designated for such person’s use by a permit holder, a contractor, or an authorized user of such receptacle.

(b) No person shall place or cause to be placed recyclable materials in a recycling container, bag, or other receptacle not owned by such person or designated for such person’s use by a permit holder, a contractor, or an authorized user of such receptacle.

SECTION 7. Alachua County Code, Part II, Title 7, Chapter 75, Article III, Section 75.301

entitled “**Collection services for residential or institutional properties**” is hereby amended as follows:

- (a) *Residential property owners within universal area.* For residential property owners within the universal area, the county shall provide or make available residential collection service, the cost of which shall be included within the solid waste assessment for residential property within the universal area.
- (1) An owner of residential property in the universal area shall provide for the disposal of solid waste generated on such property at a solid waste management facility either by using the residential collection service provided to such property by the contractor or by other lawful means.
 - (2) No residential property owner in the universal area who uses the residential collection service provided by a contractor shall use a receptacle for solid waste disposal other than a receptacle provided by such contractor. The residential property owner shall select a receptacle that is adequate in size to contain all solid waste that is normally generated on such property. The residential property owner shall dispose

of solid waste that exceeds the capacity of the receptacle in the manner prescribed in the manual, "Let's Talk Trash," promulgated by the ~~division of waste management~~Department. The residential property owner or tenant shall pay an additional fee for the collection and disposal of the excess solid waste. Such fee shall be established by the board by resolution. In the event that the county determines that the receptacle selected by the property owner is not adequate in size to contain all solid waste that is normally generated on such property, the county may replace the receptacle with the next larger size and assess the property owner for the larger receptacle and any related expenses incurred by the County for delivering the larger receptacle.

(3) Waste material that is placed in a receptacle for collection by a contractor must be secured by the resident to ensure that the waste will not be scattered by the elements prior to, or during, collection. The resident shall not overfill, and shall close the lid on, any such receptacle.

(34) An owner of residential property in the universal area shall provide for the disposal of yard trash consisting of vegetative matter exceeding contractor specifications at a solid waste disposal facility either by entering into an agreement with a contractor or by other lawful means.

(5) The County may require the owner of residential property in the universal area to remove any solid waste, yard waste, or bulk items that the owner or the owner's agent placed at the curbside or roadside in violation of the requirements in this Chapter 75. The County may remove such materials if the owner fails to remove them within 7 days after receiving written notice of non-compliance from the County. The owner shall pay, and the County shall recover, all expenses incurred by the County for the removal and disposal of such material.

- (b) *Residential property in non-universal area.* For residential property within the non-universal area, the county (1) shall provide or make available residential collection service, the cost of which shall be billed and collected by the contractor, and (2) shall provide rural collection centers. The cost of providing rural collection centers to residential property in the non-universal area may be included within the solid waste assessment for such property. An owner of residential property in the non-universal area shall provide for the disposal of solid waste generated on such property at a solid waste management facility either by entering into an agreement with a contractor, by depositing it into a rural collection center, or by other lawful means. The owner of such property shall place their garbage, refuse, and similar wastes in a bag, receptacle, or other container and otherwise ensure that the waste materials are not scattered by the elements prior to, or during, collection by a contractor, depositing it into a rural collection center, or by other lawful means of disposal.
- (c) *Institutional property.* An owner of institutional property shall provide for the disposal of solid waste generated on such property at a solid waste disposal facility, either by entering into an agreement with a contractor or by other lawful means.

- (d) *Placement of receptacles.* No earlier than 5:00 p.m. on the day preceding the scheduled collection day, an owner or occupant of residential property in the universal area or in the non-universal area shall place such solid waste receptacles and recycling containers at the curbside/roadside, but shall not place the receptacles or containers where they obstruct a road, alley, thoroughfare, bike lane, or sidewalk, unless prior written approval is provided by the Department~~on the road or street~~. No later than 9:00 p.m. of the day of collection, the owner or occupant of residential property in the universal area or in the non-universal area shall remove the solid waste receptacles and recycling containers and shall place them at least 15 feet away from the curbside/roadside or out of the public right-of-way, whichever is a greater distance from the edge of the road.
- (e) *Bulk items.* No earlier than 24 hours preceding the scheduled collection day, an owner or occupant of residential property in the universal area shall place bulk items at the curbside/roadside in a manner that separates the bulk items from garbage and recyclable materials. Bulk items shall not be placed where they obstruct a road, alley, thoroughfare, bike lane, or sidewalk, unless prior written approval is provided by the Department.

SECTION 8. Alachua County Code, Part II, Title 7, Chapter 75, Article III, Section 75.302

entitled “**Collection services and recycling requirements for commercial property and commercially collected residential property**” is hereby amended as follows:

For commercial property within the unincorporated area, the county shall make available commercial collection service, the cost of which shall be billed and collected by the contractor or permit holder.

- (a) An owner of commercial property shall provide for the disposal of solid waste and proper recycling of recyclable material generated on such property at a solid waste management facility either by entering into an agreement with a contractor or permit holder or by other lawful means. The owner and the tenant of commercial property shall provide for the "source-separation" of the designated recyclable materials from its solid waste. The owner and tenant of industrial property shall also provide for the source-separation of metals and packaging materials. The owner and the tenant of commercial property shall provide for the proper recycling of such recyclable material at a materials processing facility either by entering into an agreement with a permit holder or certified recycler, or by other lawful means. Every property owner shall ensure that all recovered materials shall be placed in a recycling container and to minimize contaminating the recovered materials with solid waste so that no more than 25 percent of the weight or volume in the recycling container is solid waste.
- (b) Commercially collected residential property. The owner of all commercially collected residential property shall establish a recycling program that is convenient and accessible to the residents for recycling of designated recyclable materials. The owner

shall provide recycling containers of at least 90 gallon capacity and shall provide a sufficient number of containers for capacity to equal or be greater than 90 gallons for each 20 dwelling units on the property. Any disagreements concerning the adequacy of the recycling program shall be resolved by the Department.

- (c) Location of containers. Every property owner shall keep all recycling containers in a safe, accessible location as agreed to by the permit holder and customer. Recycling containers on parcels consisting of multi-family dwelling units shall be placed adjacent to the commercial service container for the collection of solid waste, or at an alternate location approved by the county manager and shall be convenient to the residents' use thereof. In the event an appropriate location cannot be agreed upon, or is not convenient to residents' use, the county manager shall designate the location.
- (d) Maintenance of containers. If a contractor, permit holder, or certified recycler provides recycling containers to its customers, the contractor, permit holder, or certified recycler shall be responsible for the proper maintenance of the container. Customers who acquire their own containers from any other source are responsible for ensuring that the container can be serviced by the equipment used by the contractor, permit holder's, or certified recycler's equipment and for the proper maintenance of the container, except that any damage done by the contractor, permit holder, or certified recycler shall be the responsibility of the contractor, permit holder, or certified recycler. Each recycling container shall prominently display a County approved message concerning the items that are accepted for recycling in such container.

SECTION 9. Alachua County Code, Part II, Title 7, Chapter 75, Article III, Section 75.303

entitled "**Requirements for contractors and permit holders providing collection service**" is

hereby amended as follows:

- (a) *Authorization.* A person who wishes to provide commercial collection service or residential collection services in the unincorporated area of the county shall first receive authorization from the board. A recovered materials dealer shall register with the county manager or designee prior to engaging in business in the county.
- (b) *Procedure.* The board shall by resolution adopt a procedure for the issuance of such authorization. In addition to, or in lieu of, the procedures established by resolution, the procedures may be established in a competitive procurement process published by the County. The Board's authorization may be granted following the successful completion of an application process, a competitive procurement process, or negotiations. A fee may be established by the board by resolution.
- (c) *Qualifications; standards.* The board shall by resolution establish qualifications and standards for contractors, and permit holders providing commercial collection service

and contractors providing residential collection service. In addition to, or in lieu of, the qualifications and standards established by resolution, the qualifications and standards may be established in a competitive procurement process published by the County. At a minimum, the following qualifications and standards must be met:

- (1) The contractor and permit holder must provide evidence that they, at their own expense, have obtained all permits and licenses required by law or ordinance and will maintain the same in full force and effect.
- (2) The applicant shall maintain in full force and effect insurance as specified herein and shall furnish a comprehensive general liability policy to the county manager or designee and also file with the county manager or designee a certificate of insurance for all policies written in the applicant's name. The applicant shall carry in its own name a policy for commercial general liability. Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 general aggregate, \$1,000,000 products/completed operations aggregate, \$1,000,000 personal and advertising injury liability, \$1,000,000 each occurrence, \$50,000 fire damage liability and \$5,000 medical expense. The applicant must carry automobile liability and coverage must be afforded including coverage for all owned vehicles, hired and non-owned vehicles for bodily injury and property damage of not less than \$1,000,000 combined single limit each accident. The applicant shall carry workers' compensation insurance as required by the State of Florida.
- (3) The contractor and permit holder must provide a list of vehicles by size and type that will be used to provide the services. The name and office telephone number of the contractor and permit holder shall be prominently displayed on all solid waste collection vehicles.
- (4) The contractor and permit holder will sign a sworn affidavit that all solid waste shall be hauled to a solid waste management facility and disposed of at those sites at the expense of the contractor or permit holder. The affidavit shall also provide that commercial property's source separated recovered materials shall be kept separate from solid waste and shall be properly deposited at a recovered materials processing facility. Other recyclable materials not defined as "recovered materials" shall be properly deposited at an appropriate facility as approved by the county manager or designee.
- (5) The contractor and permit holder will sign an affidavit agreeing not to litter or cause any spillage to occur upon the premises where the collection shall occur on the public right-of-way. During hauling, all solid waste shall be contained, tied, or enclosed so that leaking, spilling, or blowing is prevented. In the event of any spillage, the contractor or permit holder shall promptly clean up all spillage.
- (6) The contractor and permit holder will agree that collection shall begin no earlier than 7:00 a.m. and shall cease at sunset with the exception of those areas where the county has agreed in writing to permit the contractor or permit holder to

collect at an earlier or later time and which will not disturb any residential area. The county also reserves the right to further regulate these hours should it deem it to be in the public's interest. In the case of an emergency, the contractor and permit holder may receive prior approval from the county manager, to be later evidenced by a written memorandum confirming the approval, that collection may be permitted at a time not allowed by this paragraph. Should the contractor or permit holder not confirm and obtain in writing the approval to operate on an emergency basis, it shall be conclusively presumed that it had not obtained such an approval. No collection shall occur on ~~S~~Sundays or holidays except in time of an emergency or to maintain a regular schedule due to holidays.

- (7) The contractor and permit holder will defend, indemnify, save harmless, and exempt the county, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys' fees resulting from injury to persons or damage to property arising out of work done in performance of this chapter. The county reserves the right to retain counsel of its choice at its own expense or, in the alternative, approve counsel obtained by the contractor or permit holder.

SECTION 10. Alachua County Code, Part II, Title 7, Chapter 75, Article III, Section 75.304

entitled **"Recycling program; title to solid waste and recyclable materials; temporary use special event recycling"** is hereby amended as follows:

- (a) At a minimum; the county shall comply with the state goal for reducing the disposal of solid waste at solid waste management facilities through the establishment of a recycling program and through the encouragement of recycling by residential property, commercial property, government property and institutional property.
- (b) The county reserves the right at all times to hold title and ownership of all solid waste and recyclable material collected by a contractor.
- (c) Proof of participation in recycling program. The owner of commercial property or owner of a commercially collected residential property shall produce proof of a valid and current contract with a contractor, permit holder, or certified recycler or receipts for delivery of recovered materials to an approved site, upon request of the County Manager.
- (d) An applicant to the department of growth management for a temporary use permit for a special event shall provide a plan for recycling of recyclable materials.

SECTION 11. Alachua County Code, Part II, Title 7, Chapter 75, Article IV, Section 75.408

entitled “**Annual reclassification of property**” is hereby amended as follows:

- (a) On an annual basis by July 1, the owner may request the county to reclassify residential property in the universal area as commercial property if the owner has contracted for commercial collection service and for the collection of recyclable materials for the entire portion of the fiscal year during which such property is to be reclassified, provided that (1) the residential property consists of either a condominium complex or a subdivision or contiguous section of a subdivision containing multifamily dwelling units or a mobile home park; (2) or that such extraordinary circumstances exist that it would be unfair to require such residential property to utilize residential collection service. To qualify for designation as commercially collected residential property, the property owner shall provide for the use of dumpster type container of a capacity of 2 cubic yards or more for the collection of solid waste. The owner shall file an application for reclassification under oath to the director of waste management on forms provided by the county which shall contain, at a minimum, the following:
 - (1) The name and address of the owner;
 - (2) If applicable, the address and legal description of each dwelling unit and total number of dwelling units within the residential property requesting reclassification as commercial property; and
 - (3) Evidence of an agreement to provide commercial collection service for solid waste and designated recyclable materials to the property for the entire portion of the fiscal year during which such property is to be reclassified.

The director shall review the application and, if it meets the foregoing requirements, ~~shall~~may approve the request for reclassification as commercial property. A decision by the director to deny the reclassification shall be made in writing and shall include the reasons for denial.

- (b) If the solid waste assessment for a parcel of residential property reclassified as commercial property pursuant to subsection (a) has not been paid for the fiscal year during which such property has been reclassified, the solid waste assessment may be reduced by an amount equal to 1/12 of the solid waste assessment imposed in respect of such property for each full month during which the property was or will be provided with commercial collection service.
- (c) If the solid waste assessment for a parcel of residential property reclassified as commercial property pursuant to subsection (a) has been paid for the fiscal year during which such property has been reclassified and if proof of payment is provided to the director, the owner shall be entitled to a refund in an amount equal to 1/12 of the solid waste assessment imposed in respect of such property for each full month during which the property was or will be provided with commercial collection service.

Refunds shall be made within 30 days of the date the application is made by the owner to the director. A written decision to deny a refund shall be made by the director within 30 days of the application date and shall include the reasons for the denial.

(d) Any owner who is denied a request:

- (1) To have his or her residential property reclassified as commercial property pursuant to subsection (a);
- (2) To have his or her solid waste assessment reduced pursuant to subsection (b); or
- (3) To receive a refund pursuant to subsection (c);

may request review of such denial pursuant to the process provided in section 75.418, Alachua County Code.

(e) The board may, by resolution, adopt a fee schedule in order to defray the administrative costs of considering and processing applications made pursuant to this section.

(f) The County may revoke a reclassification of property if the reclassification results in a violation of Chapter 75 or if the property owner uses residential collection services after the reclassification is approved.

SECTION 12. Alachua County Code, Part II, Title 7, Chapter 75, Article IV, Section 75.409

entitled “**Hardship exemption for solid waste assessments for residential property**” is hereby amended as follows:

(a) To qualify for a hardship exemption, the owner of residential property shall meet the following criteria:

- (1) The owner shall occupy the residential property and be entitled to a homestead exemption pursuant to F.S. ch. 196;
- (2) For the 12 months immediately prior to the date the application for a hardship exemption is filed, the owner and all other occupants of the residential property on the date of such application shall have a combined income less than the income exemption standard for the number of occupants of the residential property or the owner is an eligible participant in the WAGES program, or a recipient of food stamps, or Supplemental Security Income, or be currently certified for any service offered by the office of social services, within the 12-month period preceding the adoption of the annual assessment resolution; and
- (3) The owner shall have the present intent to maintain the residential property as his/her permanent place of residence during the entire fiscal year for which the solid waste assessment to be imposed is exempted.

- (b) On an annual basis, an owner seeking the hardship exemption shall file an application with the director of the office of social services to obtain a hardship exemption for the next fiscal year. Such application shall contain, at a minimum, the following:
- (1) The name and address of the owner;
 - (2) The address and legal description of the residential property for which the exemption is sought;
 - (3) The names of all occupants of the property;
 - (4) Certification from the Florida Department of Children and Family Services, or such other satisfactory proof, indicating that the owner is an eligible participant in the WAGES program, or a recipient of food stamps or Supplemental Security Income, within the preceding 12 months, is currently certified to receive any social services offered by the office of social services, or that the owner and all other persons residing on such residential property have had a combined gross income which has been within the income exemption standards for the 12 months immediately prior to filing of the application; and
 - (5) An agreement by the owner to immediately notify the county if the owner vacates the property or if the property is sold or conveyed.
- (c) The director of the office of social services shall render his/her decision in writing with copies to the ~~Director of the office of waste management~~ and the tax collector. If the owner qualifies for a hardship exemption, the exemption shall be granted and the director of the office of social services shall so specify and direct the payment of such owner's solid waste assessment from funds appropriated by the board for such purpose. The owner may request review of the denial of a hardship exemption pursuant to the process provided in section 75.418, Alachua County Code.
- (d) The hardship exemption shall be for no more than one year. Each hardship exemption shall expire on September 30. only and it The owner shall be required to file a new application to obtain a hardship exemption for each subsequent fiscal year.
- (e) An interim solid waste assessment shall be imposed against residential property that has received a hardship exemption in the event the owner during the fiscal year in which the hardship exemption was granted sells or conveys the residential property to a person not qualified for hardship exemption or permanently ceases to occupy the residential property. The interim solid waste assessment shall be calculated on a monthly rate which shall be 1/12 of the solid waste assessment imposed during such fiscal year. The interim solid waste assessment shall be equal to the product of multiplying the monthly rate by the number of full calendar months remaining in the fiscal year. Each interim solid waste assessment shall be deemed delinquent on the last day of the second full calendar month subsequent to the month of conveyance or vacation, or the last day of the fiscal year, whichever date occurs first, and shall constitute a lien on the affected property. The lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments,

and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the affected real property.

- (f) The county manager shall administer and provide for the collection of all interim solid waste assessments.

SECTION 13. Alachua County Code, Part II, Title 7, Chapter 75, Article IV, Section 75.410

entitled “**Refunds for vacancy**” is hereby amended as follows:

- (a) Assessed property which for a period of three consecutive months has been vacant may apply for a refund of a portion of the solid waste assessment paid, provided that such property has generated no solid waste.
- (b) An owner who seeks a refund for assessed property which was vacant shall apply within three years following the end of the fiscal year for which the refund is sought ~~and pay an administration fee as established by the board~~. Such application shall be filed by the owner with the director. The application shall contain, at a minimum, the following:
 - (1) The name and address of the owner;
 - (2) The address and legal description of the property for which the refund is sought;
 - (3) Proof of payment of the solid waste assessment for the fiscal year in which the refund is sought;
 - (4) The period for which such property was vacant; and
 - (5) Documentation indicating that no electrical service was provided to such assessed property during the period of vacancy or, in the alternative, evidence satisfactory to the director that such property was vacant and verification that no solid waste was generated from such assessed property during the period of vacancy. Failure to file the application within the time permitted shall be deemed to be a waiver of the right to a refund.
- (c) The director shall review the application and refund to the owner 1/12 of the cost of the solid waste assessment for such assessed property, minus the cost of administration, for each full month during which the property was vacant.
- (d) An owner may request review of the denial of a refund or dispute the amount of the refund pursuant to the process provided in section 75.418, Alachua County Code.

SECTION 14. Alachua County Code, Part II, Title 7, Chapter 75, Article IV, Section 75.411

entitled "**Exemption for inaccessibility**" is hereby amended as follows:

- (a) Residential property in the mandatory area which is inaccessible to a contractor may apply for a partial exemption from the solid waste assessment. Such residential property may be subject to a special assessment, pursuant to section 75.400, based on the special benefit accruing to such property from the county's provision of solid waste management and disposal services.
- (b) On an annual basis, an owner seeking an exemption for inaccessibility shall file an application with the ~~d~~Director ~~of the office of waste management~~ to obtain an inaccessibility exemption for the next fiscal year. The application shall contain, at a minimum, the following:
 - (1) The name and address of the owner;
 - (2) The address and legal description of the residential property for which the exemption is sought; and
 - (3) Evidence that the property is inaccessible to a contractor.
- (c) The ~~d~~Director ~~of the office of waste management~~ shall render his or her decision in writing with a copy to the tax collector.
- (d) The owner may request review of the denial of an exemption for inaccessibility pursuant to the process provided in section 75.418, Alachua County Code.

SECTION 15. Alachua County Code, Part II, Title 7, Chapter 75, Article V, Section 75.501

entitled "**Penalties and fines**" is hereby amended as follows:

Persons cited for a violation of this Chapter shall, upon conviction, be punished as provided in Section 10.08 of the Alachua County Code. A violation of this Chapter may be enforced pursuant to Chapter 24 of the Alachua County Code as may be amended from time to time. Violations include, for example, and not by way of limitation, persons failing to source separate recyclable material as provided in this Chapter. Penalties and fines imposed by any code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time, shall accrue to the ~~division of waste management~~ Alachua County Office of Code Administration.

SECTION 16. Alachua County Code, Part II, Title 7, Chapter 75, Article V, Section 75.502

entitled "**Responsibility for enforcement**" is hereby amended as follows:

- (1) The ~~division of waste management within the public works department~~ Alachua County Office of Code Administration shall be responsible for the regulation of solid waste consistent with this chapter.
- (2) The ~~division~~Department shall be responsible for the issuance of solid waste collection permits.
- (3) The ~~division~~Department shall be responsible for meeting the solid waste reporting requirements of ch. 403, Florida Statutes, including but not limited to the government agency report mandated in section 403.7032(3), and the construction and demolition debris recycling report required by section 403.707(9).

SECTION 17. Alachua County Code, Part II, Title 7, Chapter 75, Article VI, Section 75.601

entitled "**General Provisions**" is hereby amended as follows:

- (a) It shall be unlawful to commence or engage in the business of providing commercial collection service or providing containers for commercial service to properties in the unincorporated area of the county without obtaining a franchise issued by the county in accordance with this article. For the purposes of this article, "commercial collection service" means the collection and transportation of recyclable material, ~~yard trash~~ and solid waste, ~~(excluding hazardous waste,~~ yard trash~~, biomedical waste, and construction and demolition debris)~~, from commercial, institutional or government property by a commercial franchisee.
- (b) No franchise shall be awarded until the county determines that the franchisee is capable of complying with the requirements of this article.
- (c) The term of each franchise or renewal of a franchise issued on or after October 1, 2006 shall be for a term of no more than one year and shall expire on the next ensuing September 30th, unless the franchise is forfeited or revoked sooner as provided herein, or the Board approves a longer term pursuant to a franchise contract. All franchises shall require the completion of an application, which shall be valid for the term of the franchise. A franchise, once granted, may not be assigned or transferred without written approval of the county manager.
- (d) Each franchise shall be subject to the Alachua County Code of Ordinances. Each franchise shall be subject to, and franchisees shall abide by, all present and future laws, regulations, orders of regulatory bodies, County Code provisions and administrative rules applicable to the performance of the collection services hereunder. Each franchisee shall obtain all licenses and permits presently required by federal, state and local governments, and as required from time to time.

- (e) All commercial franchises may be by contract, which may include, among other things, agreement on the disposal site for waste collected by the franchisee. The specific requirements in a franchise contract approved by the Board shall supersede any conflicting requirements in this Chapter 75.
- (f) Each commercial franchisee providing commercial collection service shall make waste collection available daily (except Sunday). Collection shall begin no earlier than 6:00 a.m. and shall cease no later than 9:00 p.m., Monday through Saturday, except in areas of mixed residential and commercial occupancy, where collections shall begin no earlier than 7:00 a.m. and cease no later than 9:00 p.m., Monday through Saturday. The county manager may authorize collection on Sunday where special needs of the customer make it necessary. In the event of an emergency, a franchisee may collect at times not allowed by this section, provided the county manager grants prior approval, to be later evidenced by a written memorandum. If no written memorandum is obtained, there shall be a presumption that the franchisee did not obtain prior approval.
- (g) The commercial franchisee shall not be relieved of the obligation to promptly comply with any provision of the franchise by failure of the county to enforce compliance with the franchise.
- (h) The County may grant an exclusive franchise that authorizes one person or corporation to provide commercial collection services in part or all of the unincorporated area in the County. The ~~e~~County also reserves ~~its~~the right to grant similar ~~authorizations~~rights or franchises to more than one person or corporation as well as the right in its own name to use its streets for purposes similar to or different from those allowed to franchisees hereunder.
- ~~(i) For all contracts between customers and commercial franchisees providing commercial collection service, the franchisee shall pass through to its customers any savings realized through reduced service levels that the commercial franchisee experiences due to the customer's participation in the mandatory recycling program.~~
- (j) If a commercial franchisee fails to perform its contract with any customer for longer than two weeks, the county may perform the work using its own equipment or assign the work to another franchisee, who shall be entitled to receive the revenue from the customer for work performed that would have gone to the defaulting franchisee.
- (k) The commercial franchisee providing commercial collection service shall submit to any load inspection program that the county may reasonably devise.
- (l) Yard waste from a commercial generator or commercial customer shall be collected separately from other waste. Each commercial franchisee providing commercial collection service shall inform all of its commercial customers of this requirement.
- (m) A commercial franchisee shall respond to and, if feasible, resolve all complaints received by 12:00 noon on any business day by 5:00 p.m. of the same day and shall respond to and, if feasible, resolve all complaints received after 12:00 noon on any

business day by 12:00 noon the next business day. An emergency telephone number where the commercial franchisee can be reached shall be given to the county manager.

- (~~Am~~) A commercial franchisee shall handle commercial service containers with reasonable care and return them to the approximate location from which they were collected. A commercial franchisee providing commercial collection service shall clean up all waste spilled during the collection operation.
- (~~en~~) A commercial franchisee providing commercial collection service shall not be required to provide collection service when all appropriate disposal sites are closed or an emergency or imminent emergency exists, as determined by the county manager. Collections shall resume on the instruction of the county manager.
- (~~po~~) A commercial franchisee providing commercial collection service shall not be deemed to be an agent of the county and shall be responsible for any losses or damages of any kind arising from its performance or nonperformance under its franchise. The commercial franchisee shall defend at its own expense or reimburse the County for its defense, at the county's option, against any and all claims and suits brought against the county, its elected or appointed officers, employees, and agents resulting from the franchisee's performance or nonperformance of service pursuant to the franchise.
- (~~qp~~) In order to ensure that the commercial franchisee provides a quality level of commercial collection services, the following standards and fines are set.
 - (1) All complaints received by the county and reported to the commercial franchisee shall be promptly resolved. Any complaint received by the commercial franchisee shall be entered on a form approved by the county. All complaints received during the business day shall be transmitted on the approved form by 5:00 p.m. each business day. Any complaint received before noon shall be resolved the same business day. All other complaints shall be resolved by the end of the next business day.
 - ~~(2) In the event legitimate complaints shall exceed two percent of the total customers served by the commercial franchisee during any county fiscal year, or 0.5 percent of the total customers services by the commercial franchisee during any calendar month, the county may levy a \$100.00 fine per incident for the following incidents related to service by the franchisee:~~
 - ~~a. Commingling vegetative waste and/or recyclable materials with other waste.~~
 - ~~b. Failure to replace damaged containers within seven days of notification (48 hours for commercially collected residential customers).~~
 - ~~c. Throwing garbage cans or recycling containers.~~
 - ~~d. Failure to clean spillage.~~
 - ~~e. Failure to repair damage to customer's property.~~

(32) The county may levy fines of \$100.00 per day for the following violations of the franchise:

- a. Failure to provide clean, safe, sanitary equipment.
- b. Failure to maintain required office hours.
- c. Failure to maintain proper licenses.
- d. Failure to display franchisee name and phone number on equipment or containers.
- e. Failure to collect waste upon notification by the county. The commercial franchisee will also be charged the cost incurred by the county if county personnel are required to collect the waste due to such failure.
- f. Using improper truck to service commercial or commercially collected residential customers.
- g. Failure to provide monthly recycling reports by the 30th day after each month in the format specified by the county.
- h. Collection outside hours specified in section 75.601.
- i. Failure to provide a detailed account report electronically by the 30th day after each month in a format acceptable to the county as specified in section 75.603.
- j. Failure to provide a summary report by the due date established in section 75.603.
- k. Failure to provide an annual report by the due date established in section 75.603.

(43) Failure to clean up spillage of any substance required to be cleaned up by and in accordance with the county may result in a \$2,500.00 fine per day, per incident.

(54) Failure to maintain a vehicle so that it does not spill or leak fluids may result in a \$500.00 fine per day, per incident and may result in being required to remove the vehicle from service until satisfactory proof of repair is determined by the ~~division of waste management~~Department.

SECTION 18. Alachua County Code, Part II, Title 7, Chapter 75, Article VI, subsection

75.602(c) of the Section entitled “**Franchise Fee**” is hereby amended as follows:

- (c) All amounts paid shall be subject to confirmation and re-computation by the county. An acceptance of payment shall not be construed as an accord that the amount paid is the correct amount, nor shall acceptance of payment be construed as a release of any claim the county may have for further or additional sums payable.

SECTION 19. Alachua County Code, Part II, Title 7, Chapter 75, Article VI, Section 75.603

entitled “**Books, records and reporting requirements**” is hereby amended as follows:

- (a) The county shall have the right to review all records maintained by a franchisee providing commercial service concerning its franchise on 30 days written notice. These records shall be maintained for at least a three-year period and be readily accessible for review by the county.
- (b) Detailed account report. Each commercial franchisee providing commercial service shall electronically file a detailed account report monthly within 30 days after the end of each month with the county manager's email address designated by the ~~division of waste management~~Department. The detailed account report shall be prepared in a format acceptable to the county. The detailed account report shall contain an accurate list of customers, consisting of the name, physical address, container size, container type, (including whether the container is used for solid waste or recyclable materials), the frequency of pick-up and the parcel identification number of the customer's parcel as designated on the assessment role.
- (c) Summary report. In addition to the detailed account report, each commercial franchisee providing commercial service shall provide a written summary report specifying the total numbers of customers and total number of containers. The summary report shall be filed concurrently with the monthly franchise payment required pursuant to section 75.602. In addition, the commercial franchisee shall electronically submit a copy of the summary report and the franchise payment instrument to the address designated by the ~~division of waste management~~Department.
- (d) Annual report. Each commercial franchisee providing commercial service shall file an annual report including a schedule of total gross revenues as defined in section 75.602(a). This annual report shall be examined by an independent certified public accountant ("auditor") to certify that the computation of gross revenue used to calculate franchise fees remitted is in accordance with the terms of the franchise. The auditor's report shall state that the examination was performed in accordance with professional standards established by the American Institute of Certified Public Accountants or successor organization, and shall be filed with the county manager within 120 days of the franchisee's fiscal year end. The auditor's services shall be contracted by and paid by the franchisee.
- (e) Each commercial franchisee shall promptly report to the ~~division of waste management~~Department the location of property on which the recycling containers are regularly contaminated with solid waste. For purposes of this subsection, a recycling container is contaminated with solid waste when more than 25 percent of the weight or volume in the container is solid waste.

SECTION 20. Alachua County Code, Part II, Title 7, Chapter 75, Article VI, Section 75.604

entitled “**Application requirements**” is hereby amended as follows:

- (a) An application for a franchise or renewal thereof shall be made to the county manager on such forms and in such manner as prescribed by the County, unless the County adopts a different procedure pursuant to Section 75.303(b). Application may be made for:
 - (1) Commercial franchise, i.e., limited to collection of waste from commercially-collected residential dwellings and collection or processing of waste from commercial generators; or
 - (2) The provision of containers only for commercially-collected service.
- (b) Application forms will require, at a minimum, the following information and supporting documents:
 - (1) If the applicant is a partnership or corporation, the name(s) and business address(es) of the principal officers and stockholders and other persons having financial or controlling interest in the partnership or corporation; provided, however, that if the corporation is a publicly owned corporation having more than 25 shareholders, then only the names and business addresses of the local managing officers shall be required.
 - (2) Criminal convictions, withheld adjudications and pleas of nolo contendere for any felonies of the applicant if an individual, or any person having any controlling interest in a firm, corporation, partnership, association or organization making application.
 - (3) A statement of whether such applicant operates or has operated a waste collection business in this or any other state or territory under a franchise, permit or license; and if so, where and whether such franchise, permit or license has ever been revoked or suspended and the reasons therefore.
 - (4) Proof that corporation is in good standing in the state of corporation, if applicant is a corporation, and, if not a Florida corporation, certification that applicant is qualified to do business in the State of Florida. If applicant is other than a corporation and is operating under a fictitious name, applicant shall be required to submit information that such fictitious name is registered and held by applicant.
 - (5) A list of the type, number and complete description of all equipment, in a form prescribed by the County, to be used by the applicant for providing service pursuant to this Article. The County Manager may conduct an inspection of all equipment utilized in providing the services as outlined in the franchise to determine that the franchise possesses equipment capable of providing safe and efficient services.

- (6) A valid and current certificate of insurance, of the types and in the amounts described in Subsection 75.604(b)(7), which shall remain on file in the office of the County Manager as long as the franchisee operates a franchise.
- (7) The applicant shall maintain in full force and effect insurance as specified herein and shall furnish a comprehensive general liability policy to the County Manager and also file with the county manager a certificate of insurance for all policies written in the applicant's name. The applicant shall carry in its own name a policy for commercial general liability. Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 general aggregate, \$1,000,000 products/completed operations aggregate, \$1,000,000 personal and advertising injury liability, \$1,000,000 each occurrence, \$50,000 fire damage liability and \$5,000 medical expense. The applicant must carry automobile liability and coverage must be afforded including coverage for all owned vehicles, hired and non-owned vehicles for bodily injury and property damage of not less than \$1,000,000 combined single limit each accident. The applicant shall carry workers' compensation insurance as required by the State of Florida.
- (8) The applicant shall pay the County a non-refundable application fee, as specified in the Alachua County Fee Schedule, at the time application is filed.

SECTION 21. Inclusion in the Code. It is the intent of the Board, and it is hereby provided that the provision of this Ordinance shall become and be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this Ordinance may be renumbered or re-lettered to accomplish such intent and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION 22. Repeal of Clause. All ordinances or portions thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 23. Modification. It is the intent of the Board that the provision of this ordinance may be modified as a result of considerations that may arise during the public meeting at which the Board will consider adopting this ordinance. Such modifications shall be

incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

SECTION 24. Effective Date of Ordinance. The Clerk of the Board is directed to file a certified copy of this Ordinance with the Department of State within ten days after enactment by the Board and this Ordinance shall be take effect upon filing with the Department of State.

SECTION 25. Severability. It is the declared intent of the Board that if any word, phrase, section, subsection, sentence, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so constructed as to render invalid or unconstitutional the remaining provisions of this Ordinance which can be given effect without the invalid or unconstitutional provisions, and to this end the provisions of this Ordinance are declared severable.

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DULY ADOPTED in regular session this _____ day of _____, 2023.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF ALACHUA COUNTY, FLORIDA**

J.K. "Jess" Irby, Esq.
Clerk of Court

By: _____
Anna Prizzia, Chair

APPROVED AS TO FORM

County Attorney's Office