

BOARD RECORDS
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ORDINANCE NO. 2003-092

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE AND THE COLLECTION, PROCESSING AND MARKETING OF RECYCLABLE MATERIALS; AMENDING ORDINANCE NO. 2003-059, TO BE CODIFIED AS ARTICLE II OF CHAPTER 106 OF THE SARASOTA COUNTY CODE (THE "CODE"); AMENDING SECTION 2 OF ORDINANCE NO. 2003-059, TO BE CODIFIED AS SECTION 106-31 OF THE CODE RELATING TO FINDINGS; AMENDING SECTION 7 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-36 OF THE CODE RELATING TO DEFINITIONS; AMENDING SECTION 8 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-37 OF THE CODE RELATING TO RECYCLING GOALS AND RESPONSIBILITIES OF SOLID WASTE MANAGEMENT; AMENDING SECTION 9 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-38 OF THE CODE RELATING TO MANDATORY SOLID WASTE SERVICE DISTRICTS AS MUNICIPAL SERVICE BENEFIT UNITS; AMENDING SECTION 10 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-39 OF THE CODE RELATING TO THE ADVISORY BOARD; AMENDING SECTION 11 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-40 OF THE CODE RELATING TO GENERAL POWERS OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 12 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-41 OF THE CODE RELATING TO DESCRIPTION OF SERVICE; AMENDING SECTION 15 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-44 OF THE CODE RELATING TO RESPONSIBILITIES OF THE AUTHORIZED COLLECTORS; AMENDING SECTION 16 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-45 OF THE CODE RELATING TO RESPONSIBILITIES OF ALL HAULERS; AMENDING SECTION 17 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-46 OF THE CODE RELATING TO RESIDENTIAL CUSTOMER CLASSIFICATIONS; AMENDING SECTION 18 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-47 OF THE CODE RELATING TO RESPONSIBILITIES OF THE CUSTOMERS; AMENDING SECTION 19 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-48 OF THE CODE RELATING TO RESPONSIBILITIES OF THE COUNTY; AMENDING SECTION 21 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-50 OF THE CODE RELATING TO COMPLAINTS; AMENDING SECTION 25 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-54 OF THE CODE RELATING TO

DAVID E. RUSHING
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

UNLAWFUL DISPOSAL OF SOLID WASTE; AMENDING SECTION 28 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-57 OF THE CODE RELATING TO TERMINATION OF FRANCHISE; AMENDING SECTION 29 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-58 OF THE CODE RELATING TO MISCELLANEOUS PROVISIONS; AMENDING SECTION 31 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-60 OF THE CODE RELATING TO ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AMENDING EXHIBITS "A" AND "B", PROVIDING LEGAL DESCRIPTIONS OF THE SOLID WASTE SERVICE DISTRICTS.

SECTION 1. Articles II and III of Chapter 106 of the Sarasota County Code (the "Code") are hereby repealed in their entirety and replaced by the following.

SECTION 2. Section 106.31 of the Code is hereby created to read as follows

SECTION 106-31. FINDINGS

- (a) The Board of County Commissioners of Sarasota County (the "Board") is authorized pursuant to Section 125.01(1), Florida Statutes, as may be amended from time to time, Article VIII Section 1 of the Florida Constitution and the Sarasota County Charter to carry on County Government, and to enact regulations to promote the public health, safety, and general welfare of the citizens of Sarasota County; to adopt ordinances and resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violation of ordinances in accordance with law; and to perform any acts not inconsistent with law, which are in the common interest of the people of the County, and to exercise all powers and privileges not specifically prohibited by law.
- (b) Section 125.01(1)(k) and Chapter 403, Florida Statutes, as may be amended from time to time, grant the Board the authority to regulate Solid Waste Collection and disposal.
- (c) Pursuant to Chapter 403, Florida Statutes, local governments are authorized to enact ordinances to establish county Recycling programs for the separation, collecting and marketing of Recyclable Materials and to insure the safe and lawful disposition of such wastes and to meet the goals established by the State of Florida to protect health, safety, and welfare of the citizens of Sarasota County.
- (d) Section 4.1, Sarasota County Charter requires the establishment of a Mandatory Recycling Program for all Residential and Commercial Customers of the unincorporated area of Sarasota County.
- (e) It is essential to the health, safety and welfare of the County's inhabitants within the densely populated areas that Solid Waste, Program Recyclables,

and Yard Trash Collection and disposal and/or Processing be regulated in such a manner that Persons accumulating and generating Solid Waste, Program Recyclables and Yard Trash do so under a County mandatory system to insure the safe and lawful disposition of such wastes.

- (f) The Board has initiated and implemented a comprehensive Mandatory Recycling Program.
- (g) The Board finds that in order to enhance the beauty and quality of our environment, conserve and recycle our natural resources, reduce the impacts of Solid Waste contributing to global warming, prevent the spread of disease and the creation of nuisances, protect the public health, safety and welfare, and provide for comprehensive waste reduction programs, it is necessary to regulate the Collection and Processing of Recyclable Materials.
- (h) The United States EPA has established that Source Reduction is the preferred method of integrated waste management, followed, in descending order, by Recycling, Composting, combustion and landfilling.
- (i) Inefficient and improper methods of handling Recyclable Materials create a hazard to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.
- (j) Source Reduction is a cost effective waste management approach that encompasses environmentally-sound products and packaging, consumer education and reuse of products and materials in their original form.
- (k) Recycling, including Composting, can reduce the depletion of landfill space, save energy and natural resources, provide useful products, and prove economically beneficial.
- (l) Landfilling is a viable component of a waste management system for the management of non-Recyclable Materials and Solid Waste.
- (m) The burying or burning of waste destroys non-renewable resources and adds to the energy needed to produce new products.
- (n) State and local governments can substantially affect the development of recycled material markets by instituting preferred recycled content materials procurement policies.
- (o) That each and every parcel of improved Residential Real Property, within Municipal Service Benefit Units provided by this ordinance, which is capable of being occupied, is prima facie evidence that Residential Waste is capable of being produced and accumulated upon such properties, and such property will be, therefore, specially benefited by mandatory Residential Waste Collection Services operated under authority of the County by and through the creation of Municipal Service Benefit Units.
- (p) The production and generation of Commercial Waste by Commercial Customers varies from one property to another; Commercial Customers

cannot be made entirely the subject of Special Assessments and require a determination of Rates for Commercial Waste Collection and disposal and/or Processing different from that imposed upon Residential Customers, within Municipal Service Benefit Units provided by this ordinance.

- (q) The Courts of the State of Florida have determined that levies of Rates for Garbage and Waste Collection and disposal, and Recycling Collection, Processing and marketing, similar to those levied herein by Sarasota County are and can be levied as Special Assessments.
- (r) Sarasota County has determined that the most appropriate method to finance Residential Waste Collection and marketing of Program Recyclables is to levy Special Assessments against residential units.
- (s) There is a valid distinction regarding cost of service between types of residential properties due to differences in the quantity of Residential Waste generated, typical occupancy levels and methods of Collection. The different classes of Residential Customers are based on these distinctions. This basis is not unreasonable or discriminatory. Studies have shown that certain properties generate a higher quantity of Solid Waste, Program Recyclables and Yard Trash, have a higher year-round occupancy level, utilize individual Collection containers (Curbside Containers) and are primarily single family residences. For purposes of this Ordinance, these properties are designated Class I Customer. A second group of properties has been shown to generate a lower quantity of Solid Waste, Program Recyclables and Yard Trash, have on the average a lower year-round occupancy level, utilize mechanically serviced containers (Class II Containers and Class II Recycling Containers) as well as individual Collection containers and are primarily multiple family or higher density residential properties. These properties include, but are not limited to, condominium units, apartment buildings, mobile homes, mobile home parks, and cooperatives and shall be designated Class II Customer.
- (t) It is necessary for the Board to establish two (2) Municipal Service Benefit Units ("MSBUs") and Solid Waste Service Districts for Residential Waste and Recyclable Materials Collection in the unincorporated area of the County for the purposes of funding the Collection from Special Assessments .
- (u) Sarasota County has determined that the most appropriate method to finance Solid Waste and Yard Trash Collection for Commercial Customers is by individual contractual agreements between the Commercial Customers and the Franchisee, at not-to-exceed Rates approved by the Board.

- (v) The Special Assessment imposed upon improved Residential Real Property is intended to cover the costs of providing Residential Waste Collection, including disposal and/or Processing costs, department administration, other Solid Waste programs and the cost of administering the Solid Waste Service Districts.
- (w) Collection and disposal of Residential Waste and Commercial Waste within Solid Waste Service Districts A and B is provided by two separate Franchises.
- (x) The cost of service as among residential properties designated as Class I Customers within Solid Waste Service Districts A and B is substantially similar.
- (y) The cost of service as among residential properties designated as Class II Customers within Solid Waste Service Districts A and B is substantially similar.
- (z) The reduction of dumping of Solid Wastes, Yard Trash and Program Recyclables in and upon private properties results in a benefit accruing to each parcel of Improved Real Property within the Municipal Service Benefit Units by providing a clean, safe and healthy environment for the present and prospective occupants of such property and surrounding properties.
- (aa) The Board has determined that it is necessary to revise and update existing Garbage Collection and disposal policies, and to develop a comprehensive Solid Waste and Recyclable Materials regulatory ordinance to ensure that Solid Waste and Recyclable Materials Collection is conducted in an efficient manner that protects the aesthetic and environmental concerns of the community.

SECTION 3. Section 106-32 of the Code is hereby created to read as follows:

SECTION 106-32. INTENT

This Ordinance applies to all Residential Customers and Commercial Customers, Haulers, and Generators of Solid Waste and Recyclable Materials in unincorporated Sarasota County. It is the intent and purpose of this Ordinance:

- (a) To regulate the accumulation, storage, collection and disposal of Solid Waste; and;
- (b) To regulate Solid Waste Disposal Sites in the unincorporated areas of Sarasota County;
- (c) To provide mandatory utilization of a Solid Waste Collection and disposal system for Residential and Commercial Customers. Residential Waste

and Commercial Waste is to be handled in the unincorporated County by the creation of Municipal Service Benefit Units in such areas;

- (d) To establish four categories of Recyclable Materials: Program Recyclables; Recyclable Construction and Demolition (C&D) Debris; Yard Trash; and Additional Recyclables, each category as defined herein;
- (e) To implement a Mandatory Recycling Program for unincorporated areas of Sarasota County which provides for Residential Customer Collection of Program Recyclables; which mandates and regulates the Recycling of Construction and Demolition Debris, which mandates and regulates the Recycling of Yard Trash generated by Commercial Lawn Care Services, and encourages the Recycling of Additional Recyclable Materials. The County retains the right and ability to designate any portion of the Waste Stream as a Recyclable Material or as an Additional Recyclable Material, including but not limited to such items as food waste, various electronic equipment, carpeting, carpet pad, and drywall;
- (f) To establish and maintain a Sarasota County Source Reduction/Recycling goal of sixty percent (60%) by weight; and
- (g) To develop principles and methodologies of sustainable stewardship throughout the County on an ongoing basis.

SECTION 4. Section 106-33 of the Code is hereby created to read as follows:

SECTION 106-33. TITLE

This Ordinance may be cited as the Sarasota County Solid Waste and Recyclable Materials Collection Ordinance.

SECTION 5. Section 106-34 of the Code is hereby created to read as follows:

SECTION 106-34. APPLICABILITY

The Residential Waste and Commercial Waste Collection provisions of this ordinance are applicable solely within unincorporated Sarasota County; other provisions of this Ordinance such as Hazardous Waste and Litter are applicable in unincorporated Sarasota County and are permissive in municipalities within Sarasota County.

SECTION 6. Section 106-35 of the Code is hereby created to read as follows:

SECTION 106-35. CONSTRUCTION AND INTERPRETATION

This Ordinance shall be liberally construed in order to effectively carry out the intent and purpose of the Ordinance. Where any provision of this Ordinance refers to or incorporates another provision, statute, rule, regulations or other

authority, it refers to the most current version, incorporating any amendments thereto or renumbering thereof.

SECTION 7. Section 106-36 of the Code is hereby created to read as follows:

SECTION 106-36. DEFINITIONS

All definitions contained in this section shall be consistent with definitions contained within the Florida Statutes, as amended from time to time. In case of any conflict with definitions contained in Florida Statutes, the statutory definition shall apply. The following definitions shall be applicable to this Ordinance, all rules promulgated hereunder, and contracts issued hereunder, unless a different meaning is specifically indicated in the text.

- (a) *Audited Financial Statement* means a collection of the following as they are defined by the American Institute of Certified Public Accountants: accountants' report (opinion), balance sheet, profit/loss statement, changes in financial position/cash flow statement, notes to the financial statement, accountants' report on supplemental information and supplemental information.
- (b) *Authorized Collector* means a Person to whom a temporary exemption has been granted pursuant to this Ordinance for the Collection of his/its own Solid Waste.
- (c) *Biological Waste* means those wastes that cause or have the capability of causing disease or infection and includes, but is not limited to, Biomedical Waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. This term does not include human remains that are disposed of by Persons licensed under Chapter 470, Florida Statutes.
- (d) *Biomedical Waste* means any solid or liquid waste which may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. The following are also included: (a) Used, absorbent materials saturated with blood, blood products, body fluids, or excretions or secretions contaminated with visible blood; and absorbent materials saturated with blood or blood products that have dried. (b) Non-absorbent, disposable devices that have been contaminated with blood, body fluids, or secretions or excretions visibly contaminated with blood, but have not been treated by an approved method.

- (e) *Board* means the Board of County Commissioners of Sarasota County, Florida.
- (f) *Broker* means a Person that will accept a Recyclable Material in the quantities generated by the County to be sold, or ultimately transferred to an End-User.
- (g) *Bulk Waste* means all large household items that do not require extraordinary management, and are not covered by the definitions for White Goods and Computers and Electronic Equipment including, but not limited to, sofas, tables, bathroom fixtures, bedroom and living room furniture, appliances not considered White Goods, ladders, carpet; These items shall be placed within three (3) feet from a public or private way for Collection.
- (h) *Certificate of Occupancy* means a document produced by the County certifying that a newly constructed building has been constructed in compliance with County specifications, and is suitable for use.
- (i) *Class II Container* means any container including, but not limited to, dumpster, roll-off, or compaction equipment, approved by the County to be used for the Collection of Solid Waste or Yard Trash from any Class II Customer utilizing dumpster, roll-off or compaction Collection Service. Solid Waste and Yard Trash shall not be commingled in the same container.
- (j) *Class II Recycling Container* means any container including but not limited to, dumpster, roll-off, compaction equipment, or rhino box, authorized and approved by the County to be used for the Collection of Program Recyclables from Class II Customers utilizing dumpster, roll-off, rhino box or compaction equipment for said Collection Service. Plastic bags shall not be used in lieu of or within Class II Recycling Containers.
- (k) *Class I Customer* means single family, duplex, triplex, and quadruplex Dwelling Units; apartments with 2-9 Dwelling Units, residential combination (residence plus commercial), and retirement homes that do not have commercial kitchens and contain 2-9 Dwelling Units located within Service District (A) (B).

