

AN ORDINANCE RELATING TO HOLMES COUNTY, FLORIDA; PROHIBITING ANY SOLID WASTE EXCEPT RESIDENTIAL SOLID WASTE FROM BEING DEPOSITED IN THE SWAY CARS BEING USED FOR COLLECTION OF SOLID WASTE; PROHIBITING ANY SOLID WASTE GENERATED OUTSIDE OF HOLMES COUNTY, FLORIDA, FROM BEING DISPOSED OF IN HOLMES COUNTY, FLORIDA; PROVIDING DEFINITIONS; PROVIDING PENALTIES; PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED by the BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA, as follows:

Section One: This Ordinance is Enacted pursuant to the authority of Florida Statutes, Section 125.66

Section Two: For the purposes of this ordinance, the following definitions shall apply:

"Residential Solid Waste" shall mean household garbage and other forms of solid waste normally generated by occupants of a residence. It shall not include white goods and yard debris.

Section Three: It shall be unlawful for any person, business, corporation, partnership, municipality, or any other legal entity, to deposit, or cause to be deposited, any solid waste, other than residential solid waste, in any sway car or other trailer or device being used for the collection of solid waste in Holmes County, Florida.

Section Four: It shall be unlawful for any person, business, corporation, partnership, municipality, or any other legal entity, to deposit solid waste, generated outside Holmes County, Florida, in any sway car or other solid waste collection device, or in any sanitary landfill, located in Holmes County, Florida.

Section Five: Any person, business, corporation, partnership, municipality, or other business entity, violating the provisions of this ordinance, shall upon conviction, be subject to penalties as provided by Florida Statutes for the commission of a first degree misdemeanor.

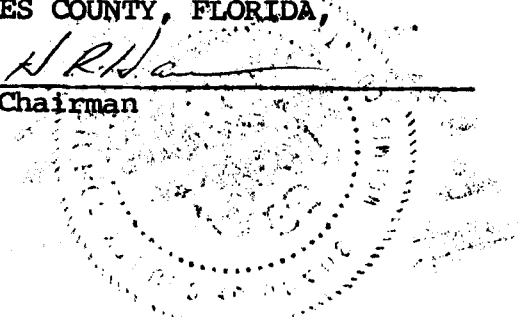
Section Six: This Ordinance shall become effective upon being enacted and being filed with the Office of the Secretary of State.

ENACTED in Regular Session this 20th day of March, 1989.

BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA,

ATTEST: [Signature] (SEAL)
Clerk

BY: [Signature]
Chairman



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November 28, 1995

Board of County Commissioners
Holmes County, Florida
P.O.Box 397
Bonifay, Florida 32425

RE: City Environmental vs. Holmes County-Federal Court Case

Dear Commissioners:

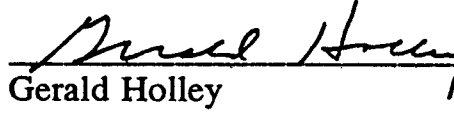
The Federal Court for the Northern District of Florida has entered a Summary Judgment declaring that Holmes County Ordinances Nos. 83-06, 87-01 and 89-01 are unconstitutional in that they violate the Commerce Clause of the Federal Constitution.

This ruling was not unexpected because the Federal Circuit Court of Appeals in Atlanta had previously entered a ruling right on point, saying that it was unlawful to prohibit the flow of solid waste across state and county lines.

Our only argument was that the Plaintiff lacked judicial standing to attack the ordinances because Plaintiff did not have a landfill in Holmes County, and that Holmes County had made no threat to enforce the ordinances against Plaintiff. This argument was seriously weakened when two County Commissioners testified in their depositions that they would seek to enforce the ordinances against the Plaintiff.

This ruling has no bearing on the outcome of the other two pending cases,
and no bearing on whether or not City Environmental gets the right to operate a
landfill in Holmes County.

Yours very truly,



Gerald Holley

GH/rh

cc: Cody Taylor

All Commissioners