

ORDINANCE NO. 91-04

AN ORDINANCE RELATING TO HOLMES COUNTY, FLORIDA; PROVIDING REGULATIONS FOR SOLID WASTE INCINERATION FACILITIES; REQUIRING SETBACKS, BUFFER ZONES, AND ENCLOSURES; PROVIDING A MORATORIUM ON THE CONSTRUCTION OR EXPANSION OF ALL SOLID WASTE INCINERATORS; PROVIDING AN EFFECTIVE DATE; PROVIDING PENALTIES FOR VIOLATION; REPEALING ALL ORDINANCES OR PROVISIONS THEREOF IN CONFLICT HEREWITH.

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

SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Board of County Commissioners of Holmes County, Florida, finds and declares that the Northwest Florida Aquifer constitutes a natural resource of the highest magnitude and importance to the residents of Holmes County.

The Board further finds and declares that the air quality currently enjoyed by the residents of Holmes County is threatened by the prospect of the emission of air toxics, particularly those arising from the incineration of soil contaminated with petroleum products, and/or the incineration of hazardous or biohazardous waste.

In addition, the Board finds that there is a strong likelihood that soil contaminated with petroleum products, biohazardous waste or medical waste include substances which are hazardous and thus finds that incinerators of this portion of the waste stream should be treated as hazardous waste incinerators and the same stringent standards should be met.

The Board also finds that it is impossible to totally separate hazardous waste from the routine solid waste stream generated by the residential, commercial and industrial uses of property in Holmes County, Florida.

The Board further finds and declares that both the United States Congress and the United States Environmental Agency are presently considering measures which would create controls on the burning of waste in incinerators, but because those measures may not become effective until after the permitting of such a facility in Holmes County, it is essential that the highest standards be imposed notwithstanding adoption of federal measures.

In addition, the Board finds that while hazardous, biohazardous or medical wastes requiring incineration, or soil contaminated with petroleum products, are not being generated within Holmes County in

quantities sufficient to pose an immediate threat to the public health, safety and welfare, yet the importation of such wastes generated outside of Holmes County may provide sufficient quantities sufficient to pose such a threat.

The Board also finds that the Legislature of the State of Florida has delegated extensive responsibilities to the governing body of Holmes County regarding the monitoring and disposition of solid waste generated within Holmes County.

The Board further finds that setbacks for incineration or thermal treatment facilities are essential for aesthetics and to safeguard the public from maximum concentrations of emission.

The Board also finds that pending a thorough review of the proposed Clean Air Act recently adopted by the Congress of the United States and the implementation of the same by the Environmental Protection Agency that it would be in the best interests of the public health, safety and welfare of the citizens of Holmes County to declare a moratorium on the construction or expansion of all solid waste incinerators or thermal treatment facilities in Holmes County.

SECTION 2. The construction or expansion of any county, municipal, or private incineration or thermal treatment facility for the treatment, decontamination or disposal of solid waste, biohazardous or hazardous waste, or contaminated soil, is hereby prohibited in Holmes County, Florida. In the event that this prohibition is held invalid or unconstitutional by a Court of competent jurisdiction, the following Subsections A through C shall be applicable.

A. Off-Site Facilities. All solid waste incineration or thermal treatment facilities with a capacity to dispose, store, or process solid waste generated off-site and transported to the site shall meet the following minimum setbacks within which other land uses shall not be allowed for front, side and rear yards, of which a minimum of one-half the required setback shall be a landscaped area consisting of trees, grasses and shrubs:

<u>Maximum Capacity per day</u>	<u>Minimum Setback</u>
50 lbs.	25 feet
100 lbs.	50 feet
200 lbs.	100 feet
300 lbs.	150 feet
400 lbs.	200 feet
500 lbs.	250 feet
600 lbs.	300 feet

700 lbs.	350 feet
800 lbs.	400 feet
900 lbs.	450 feet
1000 lbs.	500 feet
2000 lbs.	1000 feet

All facilities with a maximum capacity in excess of 2000 lbs. per day shall be required to have an additional setback of 1000 feet per 2000 lbs.

B. On-Site Facilities. All solid waste incineration or thermal treatment facilities with a capacity to dispose, or process hazardous or biohazardous solid waste generated on-site shall meet the following minimum setbacks within which other land uses shall not be allowed for front, side, and rear yards of which a minimum of one-half the required setback shall be a landscaped area consisting of trees, grasses and shrubs:

<u>Maximum Capacity per day</u>	<u>Minimum Setback</u>
50 lbs.	25 feet
100 lbs.	50 feet
200 lbs.	100 feet
300 lbs.	150 feet
400 lbs.	200 feet
500 lbs.	250 feet
600 lbs.	300 feet
700 lbs.	350 feet
800 lbs.	400 feet
900 lbs.	450 feet
1000 lbs.	500 feet
2000 lbs.	1000 feet

C. Solid Waste Incinerators. In addition to the setback requirements imposed hereinabove by subsections A and B, subsequent to the effective date of this Ordinance, permit applicants for the construction, expansion, or operation of county, municipal, or private incineration or thermal treatment facilities for the treatment, decontamination, or disposal of solid waste, hazardous or biohazardous waste, shall be required to comply with all requirements for hazardous waste facilities, as defined by Section 403.703, Florida Statutes, and such facilities will not be permitted except in the following circumstances:

(1) The applicant has obtained all necessary State of Florida DER permits for the construction and/or operation of such facility, including hazardous waste and air pollution permits; and

(2) The DER air permit established that the burning of county, municipal, or private solid waste, hazardous or biohazardous waste will result in no (zero) emissions of air toxics; and

(3) The proposed facility will be utilized exclusively for the storage, treatment or disposal of county, municipal, or private solid waste, hazardous or biohazardous waste which have been, are, and will be generated solely within Holmes County, Florida, and its capacity shall not exceed that necessary to accomplish this purpose, and

(4) The proposed facility shall be enclosed along the perimeters of the property by an eight foot high chain link fence, and

(5) The applicant shall submit an environmental and economic impact statement prepared by qualified expert consultants verifying compliance with the provisions hereof, and

(6) The applicant shall submit proof of an environmental impairment liability insurance policy written by a licensed insurance carrier authorized to do business in the State of Florida in the minimum amount of One Million (\$1,000,000) Dollars, or other surety in said specified minimum amount to be approved by the Board of County Commissioners, which said policy, or other surety shall be required to remain in force throughout the period of operation.

SECTION 3. SEVERABILITY. It is the declared intent of the Board, that, if any 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 construed so as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 4. This Ordinance shall take effect upon receipt of official acknowledgment from the Department of State of the State of Florida that it has been filed and does hereby repeal all Ordinances or provisions thereof in conflict herewith.

SECTION 5. PENALTY. Violations of this Ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the county jail not to exceed 60 days or by both such fine and imprisonment. Each day that such violation shall continue shall constitute a separate offense.

PASSED AND ADOPTED in Regular Session on this 20th day of
November 1991

ATTEST: Cody Taylor (SEAL)
Clerk of Court

HOLMES COUNTY, a political
subdivision of the State of Florida,

BY: Wade
Chairman

CERTIFIED A TRUE COPY

CODY TAYLOR, Clerk Circuit Court

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