

ORDINANCE NO. 97-- 01

AN ORDINANCE ESTABLISHING A SOLID WASTE COLLECTION AND DISPOSAL POLICY FOR HOLMES COUNTY, FLORIDA; EMPOWERING THE BOARD OF COUNTY COMMISSIONERS TO GRANT FRANCHISES FOR COLLECTING, REMOVING AND DISPOSING OF HOUSEHOLD OR COMMERCIAL SOLID WASTE AND LITTER IN THE UNINCORPORATED AREAS OF THE COUNTY; AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS TO ESTABLISH TERMS AND CONDITIONS FOR SUCH FRANCHISES; PROHIBITING THE DUMPING OR DISPOSAL OF HOUSEHOLD OR COMMERCIAL SOLID WASTE, OR LITTER IN ANY PUBLIC PLACE OR RIGHT OF WAY OR ON PRIVATE LAND OF ANOTHER IN HOLMES COUNTY, FLORIDA; PROHIBITING ANY PERSON FROM DISPOSING OF OR STORING ANY HAZARDOUS WASTE OR SPECIAL WASTE WITHIN HOLMES COUNTY, FLORIDA, WITHOUT FIRST OBTAINING A PERMIT FROM THE BOARD OF COUNTY COMMISSIONERS; PROVIDING DEFINITIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Holmes County, Florida, on behalf of the residents of Holmes County, are charged by law to be responsible for the collection, control, and disposal of solid waste and litter; and

WHEREAS, the adequate regulation of the collection and disposal of solid waste and the control of litter have a direct effect on the general health, welfare and safety of the residents of Holmes County;

NOW, THEREFORE, BE IT ORDAINED by the Board of County commissioners of Holmes County, Florida, that:

1. **Short Title:** This ordinance shall be known as and may be referred to as the "Holmes County Solid Waste and Litter Ordinance".

2. **Definitions:** (a) "Solid Waste" means garbage, refuse and other discarded solid materials, including solid waste materials resulting from industrial, commercial or agricultural operations, and community activities, but does not include solids in industrial waste water effluents, dissolved materials in irrigation return flows, other common waste pollutants or special waste, or by-products, the sale or reuse of which is intended by the persons from whose process they resulted.

(b) "Litter" means refuse, rubbish, or abandoned material of any kind, including, but not limited to, garbage, trash, cans, bottles, containers, paper, lighted or unlighted cigarettes or cigars, timber or

timber by-products or material, flaming or glowing material, glass scrap metals, plastic, rubber, yard trash, tar paper, demolition materials or the remaining demolition or destruction operation or project, masonry, animal remains, fish or seafood remains, or other comparable trash items.

(c) "Hazardous Waste" means waste, or a combination of waste which because of its quality, concentration, or physical, chemical or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. These materials may include, but are not limited to chemical, biological, explosive, flammable, radioactive and toxic materials.

(d) "Special Waste" means any waste that requires extraordinary management. This includes, but is not limited to, waste oil, sludges, dead animals, septic tank pumpings, and infectious and hazardous waste.

(e) "Person" means any natural person, partnership, firm, corporation or company, whether incorporated or not.

3. **Franchises:** The Board of County Commissioners is hereby authorized and empowered to grant franchises and require a performance bond in such districts of the County as may be designated by the Board lying outside the boundaries of any municipality to persons applying therefore, for the purpose of collecting, removing and/or disposing of solid waste or litter in such districts for compensation or any other valuable consideration. Said franchises may be exclusive or non-exclusive and shall be upon such terms and conditions as the Board shall prescribe, but shall not exceed the term of five years and may be amended or changed by the Board at any time at its direction.

4. **Prohibitions:**

(a) It shall be unlawful for any person to carry on the business of collecting, removing and/or disposing of solid waste or litter in any unincorporated area of Holmes County without first obtaining a franchise authorized by this Ordinance.

(b) It shall be unlawful for any person, whether franchised or not, to collect or dispose of solid

waste or litter in violation of the ordinance.

(c) Any person, (whether franchised or not) who is in the business of collecting, removing or disposing of solid waste or litter within any area of Holmes County, whether incorporated or not, shall not dispose of or deposit any solid waste or litter on any lands in Holmes County, except at sites or locations permitted by the State of Florida Department of Environmental Protection to receive and dispose of solid waste.

(d) It shall be unlawful for any person to throw, discard, place or deposit litter or solid waste, in any manner or amount:

(1) in or on any public highway, road, street, alley, or thoroughfare or any portion of any right of way thereof, or in or on any public lands, except in containers or areas lawfully provided therefore; or

(2) in or on any private property, unless prior consent of the record owner of that property has been obtained and said litter will neither constitute a public nuisance nor otherwise be in violation of any state or local law, this or any other ordinance, rule of regulation.

(3) When any litter or solid waste is thrown or discharged from any motor vehicle being operated or located on any public or private right of way within Holmes County, the operator of such motor vehicles who shall allow or permit such throwing or discharge shall be deemed to have violated this section. Any owner, lessee, or driver of any vehicle from which any litter or solid waste has fallen, blown, leaked, sifted, thrown, discharged, or otherwise escaped from the vehicle shall immediately cause the litter, or solid waste on public property (without prior consent) to be removed and shall pay and be responsible for the cost of removal and clean-up in a civil action brought for that purpose.

(e) It shall be unlawful for any person, firm, corporation, partnership, governmental body or any other legal entity, to dispose of or store hazardous waste or special waste within Holmes County, Florida, without first obtaining a permit from the Board of County Commissioners of Holmes County, Florida.

5. Inference:

(a) Proof that the name of any persons found on litter or other written material contained in litter or solid waste deposited unlawfully on any public highway, road, street, alley or thoroughfare, including any portion of the right of way thereof, or any other public or private lands (without prior consent) shall give rise to an inference that said litter or solid waste was discharged or placed, or allowed to be discharged or placed, thereon by said person in violation of Paragraph 4 above

6. Exemptions:

(a) This ordinance shall not apply to the disposal of solid waste by feeding or delivering such solid waste for feeding to animals when such act is accomplished other wise in accordance with the laws of the State of Florida.

7. Enforcement: The enforcement of this ordinance shall be the duty and responsibility of any and all law enforcement agencies operating within Holmes County, Florida, including , but not limited to, the Holmes County Sheriff's Department, Florida Freshwater Fish and Game Department Officers, or any other employee or independent contractor employed by Holmes County and designated by the Board of County Commissioners as a litter or solid waste enforcement officer.

8. Penalties: Violations of this ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted, in the name of the state of Florida by the prosecuting attorney.

(a) Any person found guilty of violating Paragraph 4D above shall be punished by a civil penalty in an amount not to exceed the actual cost of removal and clean-up of the litter or solid waste deposited in violation of Paragraph 4D, or by the performance of community service work not to exceed 40 hours, or both; or by a criminal fine not to exceed \$500.00 or by imprisonment in the county jail for a term not to exceed 60 days, or both. If the sentencing court finds that the violator has previously been found guilty of a violation of this ordinance, then the violator shall be punished by the imposition of a criminal fine not to exceed \$500.00 or by the imprisonment in the county jail for a term not to exceed 60 days or both. Any fines assessed pursuant to this ordinance or pursuant to Florida Statute Section 403.413 shall be placed in the general revenue fund of Holmes County.

(b) Any person violating any provision of this Ordinance other than Paragraph 4D above shall

be deemed guilty of a second degree misdemeanor and punished as provided by law.

9. **Repealer:** All other ordinances or portions of ordinances in force at the time this ordinance becomes effective which are in conflict with my provisions thereof shall be deemed to be and are repealed to the extent of any such conflict, otherwise to remain in full force and effect.

10. **Severability:** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is held for any reason to be unconstitutional, void, or invalid, the validity of the remaining portions of said ordinance shall not be affected thereby. Nothing in the ordinance shall be construed to affect any suit or proceeding now pending in any court, or any rights accrued, or existing under any act or ordinance repealed hereby.

11. **Effective Date:** This ordinance shall take effect upon receipt of official acknowledgment from the office of the Secretary of State of Florida that the said ordinance has been filed in the office.

THE FOREGOING ORDINANCE WAS ADOPTED BY A VOTE OF 5 to 0 by the Board of County Commissioners, Holmes County, Florida, after due notice and publication, in the regular meeting on March 5, 1997.

DONE THIS 5th day of March, 1997, in regular session in Bonifay, Florida.

ATTEST *Cady Taylor* (SEAL)
Clerk

HOLMES COUNTY BOARD OF
COUNTY COMMISSIONERS
BY: *Rick Chasen*
Chairman

