

ORDINANCE NO. 89-02

AN ORDINANCE OF HOLMES COUNTY, FLORIDA; RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE; PROVIDING FINDINGS OF FACT; PROVIDING DEFINITIONS; REQUIRING THAT ALL SOLID WASTE GENERATED WITHIN HOLMES COUNTY BE DISPOSED OF IN A SOLID WASTE DISPOSAL SYSTEM PERMITTED AND APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL REGULATIONS; MAKING IT UNLAWFUL TO TRANSPORT SOLID WASTE GENERATED OUTSIDE HOLMES COUNTY INTO HOLMES COUNTY; CREATING A SPECIAL MUNICIPAL SERVICE DISTRICT FOR SOLID WASTE COLLECTION AND DISPOSAL; PROVIDING FOR THE INCLUSION OF MUNICIPALITIES IN THE DISTRICT; CREATING A GOVERNING BODY OF THE DISTRICT; PROVIDING AUTHORITY FOR THE DISTRICT TO LEVY SPECIAL ASSESSMENTS WITHIN THE DISTRICT TO FUND SOLID WASTE COLLECTION AND DISPOSAL; PROVIDING FOR COLLECTION OF THE SPECIAL ASSESSMENTS; PROVIDING FOR CERTAIN EXEMPTIONS AND EXCEPTIONS; PROVIDING A PENALTY CLAUSE; PROVIDING FOR CONFLICTS WITH OTHER COUNTY ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN AFFECTIVE DATE.

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

Section 1. Findings of Fact.

(A) It is no longer economically feasible for the County to own and operate sanitary landfills.

(B) The majority of Holmes County Citizens are opposed to a regional sanitary landfill being located in the County.

(C) Because of the stringent regulations and requirements of the Department of Environmental Regulation, and because of the desires of the citizens of the County, it has become necessary to dispose of solid waste outside of the County.

(D) It is necessary for the promotion of the common interest for the people of the County, to provide for an adequate solid waste disposal system for the citizens of the County.

(E) There is an excessive accumulation of and unauthorized dumping of solid waste on private and public property, including undeveloped forested lands, and public rights-of-way within the County, resulting in the necessity for more stringent regulation of Solid Waste disposal practices within the County to protect the health, safety and welfare of the citizens of the County.

(F) It has become necessary to levy and collect special assessments for the collection and disposal of Solid Waste due to the high cost involved, and due to the fact that the Ad Valorem Tax Base will not fairly support these costs.

Section 2. Legal Authority.

This Ordinance is enacted pursuant to the power and authority granted to the Board of County Commissioners by Florida Statutes, Section 125.01 and 125.67.

Section 3. Definitions.

For the purpose of this Ordinance, the definitions contained in this section shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the plural number include the singular and words used in the singular number include the plural.

A. "Board" means the Board of County Commissioners of Holmes County, Florida.

B. "County" means Holmes County, Florida.

C. "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 such as silt, dissolved or suspended 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.

D. "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.

E. "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.

F. "Solid Waste Disposal System" means any solid waste disposal system approved and permitted by the Department of Environmental Regulation.

Section 4. Transporting and Disposal of Solid Waste.

(A) All solid waste generated within Holmes County shall be disposed of in a Solid Waste Disposal System permitted and approved by the Department of Environmental Regulation. It shall be unlawful for any person, business or other legal entity to dump or dispose of any solid waste other than in such a Solid Waste Disposal System.

(B) It shall be unlawful for any person, business or other legal entity, including any municipality or other governmental unit, to transport solid waste to Holmes County from areas beyond the jurisdictional limits of Holmes County.

(C) Hazardous Waste or Special Waste generated in the County which cannot be handled by the Board pursuant to law or permit conditions established by agencies of governments having jurisdiction over such waste, shall be handled and disposed of entirely at the expense of the person or agency generating such waste.

(D) All vehicles or other carriers of solid waste shall be covered or enclosed to prevent littering.

Section 5. Municipal Service District.

A Special Municipal Service District, hereafter called the District, for solid waste collection and disposal is hereby created. The District shall include all of the unincorporated areas of the County and those municipalities lying within the County which elect to become a part of the District, by approval of the governing bodies of such municipalities. Any municipality shall automatically become a part of the District upon the official approval of its governing body.

Section 6. Governing Body of District.

The governing body of the District shall be the Board of County Commissioners of Holmes County. The governing body shall determine the method and procedure for collecting and disposing of all solid waste generated in the District.

Section 7. Levying and Collection of Special Assessments.

A. The governing body of the District shall have the power and authority to levy and collect an special assessment against all residences and businesses within the District, the assessments to be used to fund the collection and disposal of solid waste generated within the District.

B. The governing body of the District shall annually adopt a budget for the collection and disposal of all solid waste generated within the District, and shall adopt a resolution providing the amounts of the assessments needed to fund the budget, and the methods to be used for collecting and enforcing the collection of the assessments.

C. If and when it becomes lawful, the assessments may be made due and payable within the time and in the manner prescribed by law for county ad valorem taxes pursuant to Section 197.0126, Florida Statutes, or other law of similar import, providing that the requirements of such law are satisfied. The Tax Collector shall bill and collect the Annual Special Assessment so levied by the Board in the same manner as taxes are collected and shall pay same over to the Board within the time and in the manner prescribed by law for the payment by the Tax Collector or county ad valorem taxed, and the revenues collected shall be held by the Board and paid out by it as provided in this ordinance. The Tax Collector shall include on the notice mailed pursuant to Section 197.072, Florida Statutes, or other law of similar import, to each owner of a residence or business included on the Annual Special Assessment Roll, a line item on the tax bill of the amount of the Annual Special Assessment on such real property. Nothing contained in this section of this ordinance shall be construed or interpreted to preclude the Board from submitting, within its discretion, a separately prepared notice of the Annual Special Assessment imposed on parcels of real property, if, in the judgment of the Board, such procedure will facilitate the billing and collection of the Annual Special Assessments. Tax Certificates and Tax Deeds shall be issued for all delinquent properties in accordance with and in like manner as the same are authorized pursuant to Chapter 197, Florida Statutes, or other law of similar import, and other general and special laws regulating the issuance of same for non-payment of delinquent county ad valorem taxes. If the Board is not allowed by law to issue Tax Certificates and Tax Deeds and otherwise bill and collect the Annual Special Assessments in like manner as county ad valorem taxes, the Annual Special Assessments shall be due and payable as provided in Section 7(D).

D. If the Board does not collect the special assessments as provided in Section 7(C), then the Board may periodically bill the assessments by any other method deemed feasible by the Board. All assessments not paid within 30 days from the due date, as specified in the billing, shall constitute, and are hereby imposed as, liens against such real property as of the 30th day

following the due date. All assessment shall bear interest at the rate of 18% per annum from the date they become liens. Unless fully paid and discharged or barred by law, the periodic Special Assessments shall remain liens equal in rank and dignity with the lien of county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved for a period of Five (5) years from the first day of January of the year during which the periodic Special Assessments are imposed.

If any periodic Special Assessment lien is not fully paid by the end of the calendar year for the year in which the Special Assessment was levied, the Clerk of the Circuit Court shall, upon receipt of the list of outstanding and uncollected periodic Special Assessments from the Board, cause to be prepared a Notice of Lien containing the amount of the delinquent Special Assessments, including the amount of interest provided for herein, a legal description of the real property against which the lien is imposed and the name of the Owner of such real property as indicated on the real property assessment roll maintained by the Property Appraiser. The Notice of Lien shall be recorded in the public records of the County.

E. All delinquent Special Assessment liens created pursuant to this Section, may be enforced by the Board at any time subsequent to the recording of the Notice of Lien, including interest and costs, costs of abstracts or title searched, and a reasonable attorney's fee, by proceedings in a court of competent jurisdiction to foreclose such liens in the manner in which a mortgage lien is foreclosed under the Laws of Florida: It shall be lawful to join in any complaint for foreclosure, and one (1) or more lots or parcels of real property that is the subject of a delinquent lien or liens.

F. Nothing in this Ordinance shall prohibit the Board from collecting and enforcing payment of said Special Assessments by any other lawful method.

Section 8. Exemptions.

Exemptions from the Special Assessments may be granted, at the discretion of the Board, to persons proving to be indigent or handicapped. Persons desiring this exemption must provide adequate proof of indigency or handicap. Records shall be maintained for inspection for any exemption of payment.

Section 9. Penalty Clause.

Any person or business or other legal or governmental entity violating any provision of Section 4 of this Ordinance, shall, upon conviction, be deemed guilty of a misdemeanor of the first degree, punishable as provided by law.

Section 10. Effect on Other Ordinances.

The provisions of this Ordinance shall prevail in the event of conflict with the provisions of any existing county ordinance or regulation.

Section 11. Severability.

In the event any portion or provision of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such

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holding shall not affect the validity of the remaining portion or provisions of this Ordinance.

Section 12. Effective Date.

This Ordinance shall become effective upon being adopted by the Board of County Commissioners of Holmes County, Florida, and filed with the Office of the Secretary of State.

ADOPTED in Special Session this 28th day of March, 1989.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
HOLMES COUNTY, FLORIDA

Clerk

BY: _____
Chairman