

**PROPOSED**

## ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD  
2 COUNTY, FLORIDA, PERTAINING TO GARBAGE COLLECTION AND DISPOSAL OF  
3 SOLID WASTE; REPEALING SECTIONS 14-78 THROUGH 14-84 OF THE BROWARD  
4 COUNTY CODE OF ORDINANCES ("CODE"); CREATING NEW SECTIONS 14-78  
5 THROUGH 14-84 OF THE CODE; AND PROVIDING FOR SEVERABILITY, INCLUSION  
6 IN THE CODE, AND AN EFFECTIVE DATE.

7 (Sponsored by the Board of County Commissioners)  
8

9 WHEREAS, Broward County is responsible for ensuring collection, hauling, and  
10 transportation services for solid waste generated within the unincorporated areas within  
11 Broward County;

12 WHEREAS, in 1980, the Broward County Board of County Commissioners  
13 ("Board") enacted Sections 14-78 through 14-83 of the Broward County Code of  
14 Ordinances ("Code"), establishing the manner by which the County will satisfy its  
15 obligations regarding the collection of solid waste in the unincorporated areas;

16 WHEREAS, in 2011, the Board enacted Section 14-84 of the Code, establishing  
17 an "Open Market Area" within designated portions of the unincorporated areas of Broward  
18 County whereby the County was authorized to issue nonexclusive licenses to multiple  
19 private waste collectors to provide collection, hauling, and transportation services for  
20 commercial and industrial solid waste generated within the "Open Market Area";

21 WHEREAS, on October 11, 2022, the Board authorized the County Administrator,  
22 or designee, to approve and execute new license agreements, based on a form  
23 agreement approved by the Board, for the collection of commercial solid waste in the  
24 Open Market Area; and

25 WHEREAS, the provisions in Sections 14-78 through 14-83 of the Code have not  
26 been modified since 1989, and Section 14-84 of the Code relating to the Open Market  
27 Area has not been modified since its 2011 enactment, and the Board believes it to be in  
28 the best interest of Broward County to update the provisions in these sections of the Code  
29 to reflect current conditions impacting solid waste collection and disposal,

30 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
31 BROWARD COUNTY, FLORIDA:

32 Section 1. Sections 14-78 through 14-84 of the Broward County Code of  
33 Ordinances are hereby repealed in their entirety, and new Sections 14-78 through 14-84  
34 are hereby created to read as follows:

35 [Underlining omitted]

36 **Sec. 14-78. Definitions.**

37 As used in this division, the following words and terms shall have the following  
38 meanings, unless some other meaning is plainly intended:

39 *Administrative Code* means the Broward County Administrative Code.

40 *Agency* means Solid Waste and Recycling Services or any successor agency.

41 *Agency Director* means the Director of Solid Waste and Recycling Services,  
42 including any interim or acting director or designee, or of any successor agency.

43 *Board* means the Broward County Board of County Commissioners.

*Code* means the Broward County Code of Ordinances.

*Collection Services* means Solid Waste collection and disposal services from residential units (as described in Section 30-457 of the Code), as well as from commercial establishments, industrial establishments, and mobile home parks within Service Areas or the Open Market Area.

*County* means Broward County, Florida, a political subdivision of the State of Florida.

*Garbage* as used in this Chapter has the same definition as used in Section 27-214 of the Code.

*License* means a written license agreement between the County and a private waste collector authorizing the private waste collector to engage in the exclusive or nonexclusive (as set forth in the License) collection, hauling, and transportation of all or a portion of Garbage, Recyclable Material, Regulated Garbage, and/or Solid Waste within specified portions of the unincorporated areas within Broward County.

*Licensee* means a private waste collector who has a License.

*Open Market Area* means the area established by the Board in the Administrative Code, which includes all portions of the unincorporated areas within Broward County that have not been otherwise designated as being within another Service Area.

*Recyclable Material* is defined to include the meanings contained in both Sections 14-71 and 27-214 of the Code.

*Regulated Garbage* means any Garbage, Solid Waste, other waste, debris, substance, constituent, object, or material described in, or regulated pursuant to, 7 C.F.R. §§ 330.400 through 330.403 or 9 C.F.R. § 94.5.

*Solid Waste* is defined to include the meanings contained in both Sections 14-71 and 27-214 of the Code. For purposes of this division, the term includes “solid wastes” and “solid waste matter” as defined in Section 14-14 of the Code, Garbage, Regulated Garbage, construction and demolition debris, rubbish, and refuse.

**Sec. 14-79. Establishment of Collection Service Areas, rules, and regulations.**

The Board shall, by resolution and inclusion in the Administrative Code, divide the unincorporated areas within Broward County into service areas (each a “Service Area” or “Collection District”), for the purposes of delineating areas for Collection Services. The Board shall have the authority to adopt rules and regulations governing Collection Services within Service Areas, provided that such rules and regulations shall not apply to any existing contract entered into by the County for Collection Services unless such contract authorizes the County to establish such additional rules and regulations. This section shall not be construed to require the Board to establish any such rules or regulations.

**Sec. 14-80. Ownership, collection, and disposal.**

(a) Ownership of all Solid Waste or Recyclable Material collected by or on behalf of the County from Service Areas shall be vested in the County upon collection.

(b) All Solid Waste accumulated in Service Areas shall be collected, conveyed, and disposed of by the County or waste collectors retained by the County. No person or entity shall collect, convey, or dispose of any Solid Waste accumulated in any Service Area unless authorized in writing by the County.

(c) The Board may provide for Collection Services within Service Areas via Licenses or franchise agreements with waste collectors or via an interlocal agreement with municipalities that border the applicable Service Area.

(d) Nothing in this division shall prohibit an actual producer of Solid Waste, or the owners of premises upon which Solid Waste has accumulated, from personally collecting, conveying, or disposing of such Solid Waste, provided such producers or owners comply with the applicable provisions of this division and with all other applicable laws, regulations, and ordinances relating to the collection, conveyance, or disposal of Solid Waste.

(e) Nothing in this division shall prohibit persons or entities that are otherwise authorized from merely transporting over the roads and streets in the unincorporated areas within Broward County any Solid Waste collected from properties outside of the Service Areas, provided such persons or entities comply with the applicable provisions of this division and all other applicable laws, regulations, and ordinances.

**Sec. 14-81. Fees.**

Licensees and others authorized to engage in Collection Services (including, without limitation, the collection, transportation, and/or disposal of Regulated Garbage described in, or regulated pursuant to, 7 C.F.R. §§ 330.400 through 330.403 or 9 C.F.R. § 94.5) within any Service Area shall be required to pay fees to the County in amounts established by the Board and either provided for in the Administrative Code or in the Licenses or other written agreements entered into between the County and those engaged in the Collection Services.

**Sec. 14-82. Rates to be charged by collectors.**

The Board may establish minimum and maximum rates and fees. Licensees are permitted to charge for Collection Services; however, this section shall not be construed to require the Board to establish any such rates or charges.

**Sec. 14-83. Prohibition and enforcement.**

Except as expressly provided in this division, no person or entity shall engage in any Collection Services within one or more Service Areas (including, without limitation, the collection, transportation, and/or disposal of Regulated Garbage described in, or regulated pursuant to, 7 C.F.R. §§ 330.400 through 330.403 or 9 C.F.R. § 94.5) without first obtaining a License or other written authorization from the County. Any person or entities that engage in such Collection Services without a required License or other written authorization from the County shall be deemed to have violated this division and shall be subject to prosecution pursuant to Section 125.69, Florida Statutes. If there is a continuing violation, each day's violation shall constitute a separate offense. The provisions of this division may also be enforced by injunction, other civil court action, or criminal prosecution as applicable.

**Sec. 14-84. Open Market Area Licenses.**

(a) The Board hereby establishes an Open Market Area in the Administrative Code.

(b) *License required.* No person or entity shall remove or transport Solid Waste (including, without limitation, any Regulated Garbage described in, or regulated pursuant to, 7 C.F.R. §§ 330.400 through 330.403 or 9 C.F.R. § 94.5) over the streets or public rights-of-way of the Open Market Area without first applying for and receiving a License

for Collection Services from the Agency. The License required by this section shall be in addition to, and not satisfied by, payment of any business tax that may be required of any person or entities that maintains its principal place of business or a branch office in the designated unincorporated areas.

(c) *Duration and Renewals of License.* Each License awarded pursuant to the provisions of this section shall be for no longer than a period of three (3) years from the date of issuance. The Agency Director may renew such License(s) on an ongoing basis with no renewal period lasting longer than three (3) additional years. All such renewals shall be subject to the same terms and conditions applicable to the then-current provisions of the License, including, without limitation, all fees, mandatory information submissions, and disclosures.

(d) *License eligibility.* No applicant shall be eligible to obtain a License under this section if such applicant has any outstanding final unpaid fines or assessments relating to improper collection or disposal of Solid Waste or Recyclable Material.

(e) *License application(s).* Applications for a License to engage in Collection Services in the Open Market Area shall be made to the Agency upon such form and in such manner as shall be prescribed by the Agency Director, subject to the form of the License being approved by the County Administrator and reviewed for legal sufficiency by the Office of the County Attorney. In addition to any disclosures, information, forms, or procedures required by the Agency Director, each applicant for a new License or renewal of an existing License shall provide the Agency with, at a minimum, the following:

- (1) Information concerning all accounts served or to be served within the Open Market Area (and, if applicable, any other designated unincorporated areas within Broward County);
- (2) A list of vehicles to be used for Collection Services within Broward County, including each vehicle's VIN number, tag number, make, model, and vehicle description; and
- (3) Background information on the applicant, including a statement indicating whether the applicant is an individual, corporation, limited liability company, partnership, association, organization, or other business entity. If the applicant is not an individual, the applicant must provide the Agency with a list of any person(s) having any financial, controlling, or managerial interest therein, so that the Agency Director may determine, in their sole discretion, whether the applicant meets the qualification of responsibility. In making such determination concerning responsibility, the following information shall be submitted by the applicant as part of the application for a License and may be considered by the Agency Director:
- a. If the applicant is a corporation, limited liability company, partnership, association, organization, or other business entity: the name and business address of (as applicable for the type of entity) the principal officers, stockholders, partners, managers, members, and other persons having any financial or controlling interest in the entity; provided, however, that if the corporation is a publicly held corporation having more than twenty-five (25) shareholders, then



only the names and business addresses of the local managing officers shall be required;

b. If the applicant is an individual, and for the individuals identified in Section a. above: (i) a record of all guilty pleas, withholding of adjudication, or convictions for misdemeanors and felonies (including, but not limited, to all traffic criminal offenses such as reckless driving, driving on a suspended license, or DUI); and (ii) the reasons for such guilty pleas, withholding of adjudication, and convictions shall be provided by the applicant;

c. Whether the applicant has operated a Solid Waste or Recyclable Material collection/removal business in Florida or another state under a franchise, permit, license, or other authorization from a governmental entity, and, if so, whether such franchise, permit, license, or such authorization has ever been revoked, terminated, or suspended and the reasons for such revocation, termination, or suspension;

d. Whether such applicant has any prior or pending code violations or enforcement actions within Broward County relating to improper Solid Waste or Recyclable Material collection or disposal;

e. If the applicant is a corporation or other entity, the applicant shall submit proof of organization in good standing in the state of organization and, if not a Florida entity, the applicant shall provide

information confirming that the applicant is qualified to do business  
in the State of Florida; and

f. If the applicant is operating under a fictitious name, the applicant  
shall be required to submit information that such fictitious name is  
registered and held by the applicant in the State of Florida.

(f) *Equipment and method of operation.* Each applicant for a new License or  
License renewal must possess equipment capable of providing safe and efficient  
Collection Services and shall make information regarding same available to the Agency  
upon request.

(g) *Open Market Area License application processing fee.* Each application for  
a new License or License renewal must be accompanied by a fee, as prescribed in the  
Administrative Code, that shall be paid regardless of whether the application is approved.

(h) *Open Market Area License fee.* Each application for new License or License  
renewal must be accompanied by a fee as prescribed in the Administrative Code. This  
fee shall only be paid if the new or renewal License application is approved and such  
License is issued.

(i) *Signatures; application submission.* Each License application must be  
signed by the individual submitting the application or, in the case of a corporation or other  
entity, by an individual with authority to bind the entity; provided, however, that for a  
publicly held corporation that has twenty-five (25) or more shareholders, the signatures  
of a local managing officer shall be sufficient. The completed application shall be  
submitted to the Agency Director.

(j) *Approval and issuance of License(s); License Renewals.* Upon submission to the Agency of a completed application for a new License or License renewal, the Agency Director has authority to either grant or reject the application. A new License or License renewal shall be issued by the Agency Director if all the following conditions have been met:

(1) The applicant has executed a revocable License agreement with the County, in a form approved by the Board or that the Board has delegated authority to approve, providing for the terms and conditions of the Collection Services to be rendered within the Open Market Area;

(2) The applicant has paid all required fees; and

(3) The applicant has furnished any proof of insurance that is required.

(k) *Denial of License.* If the Agency Director denies an application for a new License or renewal of an existing License, the applicant shall be notified of such denial by certified mail not later than ten (10) business days after the decision is made. Such notice shall contain a statement of the reasons why the application was not approved.

(l) *Appeal from license denial.* An applicant whose application for a new License or License renewal has been denied may submit an appeal to the County Administrator as follows:

(1) An applicant shall furnish notice of their appeal to the Agency Director within ten (10) business days after the date the certified mail advising the applicant of the denial of the application was sent. This notice must include all of the applicant's reasons and documents that applicant wishes to be considered

as part of the appeal as well as an e-mail address to which communications regarding the appeal may be sent;

(2) After receipt of a request for appeal, the Agency Director shall provide the notice and information submitted by the applicant to the County Administrator;

(3) Within forty-five (45) days after receipt of the appeal information, the County Administrator, or designee, shall issue a final decision, made in their sole judgment, regarding whether the Agency Director abused their discretion in denying the application. If the County Administrator finds that the Agency Director's decision constituted an abuse of their discretion, the County Administrator will direct the Agency Director to issue the License or License renewal, as applicable. If the County Administrator determines that the Agency Director's decision was not an abuse of their discretion, the denial will be sustained. The decision of the County Administrator regarding any appeal is final; and

(4) A copy of the County Administrator's decision regarding an appeal shall be promptly provided to the applicant by e-mail to the e-mail addresses provided in the appeal notice as well as by mail.

(m) *Licensee obligations.* Upon issuance of a License, the Licensee must fulfill the following obligations:

(1) *Designation of disposal site(s).* Each Licensee must deliver all Solid Waste collected within the Open Market Area to a disposal facility of the Agency Director's choosing.

- 266 (2) *Lawful disposal.* Any Licensee operating within the Open Market Area shall  
267 dispose of Recyclable Material and Solid Waste at a facility or facilities duly  
268 licensed for the disposal of such Recyclable Material or other Solid Waste  
269 materials and must further comply with all applicable laws, regulations, and  
270 interlocal agreements pertaining to the collection, transportation, recycling,  
271 and disposal of Solid Waste, Recyclable Material, and any “biomedical  
272 waste,” “hazardous material,” or “hazardous waste,” as those terms are  
273 defined in Section 27-352 of the Code.
- 274 (3) *Franchise fee(s); Late fees.* Each Licensee must pay to the County a  
275 franchise fee in the amount adopted by resolution by the Board and included  
276 in the Administrative Code. If the Licensee fails to timely pay any franchise  
277 fee owed to the County, a late fee shall be imposed in the applicable amount  
278 adopted by resolution of the Board and included in the Administrative Code.
- 279 (4) *Monthly disclosure(s).* By the fifteenth (15th) calendar day of the month,  
280 each Licensee shall supply the Agency with certain information as provided  
281 for in this section, in a manner and form prescribed by the Agency Director.  
282 All such information submitted by the Licensee must be accurate and shall  
283 be subject to audit by the Agency or its designated representative(s).  
284 Licensees must retain, for a minimum of five (5)years, all information they  
285 possess concerning accounts serviced by them within the unincorporated  
286 areas of Broward County (whether in the Open Market Area or a Service  
287 Area). The monthly information submitted to the Agency by each Licensee  
288 shall include, without limitation, the following:

- 289           a.     The gross receipts, gross billings, and total franchise fees due from  
290                     all accounts serviced during the previous month within the  
291                     unincorporated areas of Broward County.
- 292           b.     For multifamily dwellings, the total number of living units served, and  
293                     the total number of tons of Solid Waste and Recyclable Material  
294                     collected.
- 295           c.     A list of all permanent accounts dropped or added by the Licensee,  
296                     including the account name, address, and telephone number.
- 297       (5)    *Insurance requirements.* Before commencing business under a license  
298                     issued under this section, each Licensee must maintain automobile liability  
299                     insurance, general liability insurance, and any additional policies of  
300                     insurance as specified in the License. The Licensee's insurance  
301                     requirements shall not be construed as imposing upon the County or any  
302                     official or employee any liability or responsibility for damage to any person  
303                     injured or any property damaged by any Licensee, their employees,  
304                     subcontractors, or agents.
- 305       (n)    No License issued under the provisions of this section may be assigned or  
306                     transferred.
- 307       (o)    *Revocation.* Any License issued pursuant to this section may be revoked as  
308                     provided for in the License. In addition to any revocation provisions contained in the  
309                     License, the Director of the Public Works Department, their designee, or other such  
310                     individual(s) identified in a License may also revoke a License for any violation of any of

the terms and conditions of this section or for the violation of any of the terms and conditions of the License shall be cause for revocation of a license.

(1) *Notice of revocation.* In the event of the revocation of a License as provided in this section, the Licensee shall be provided with written notice of such revocation within the time period provided for in the License, along with the reasons for the revocation;

(2) *Cessation of operations.* Upon the Licensee's receipt of notice of revocation, the Licensee shall immediately cease all operations authorized in the License, and the Licensee shall be considered to have forfeited such License and the rights acquired thereunder; and

(3) *Appeal or revocation.* Upon receipt of such notice, the Licensee may appeal such revocation to the County Administrator, or their designee, provided that such designee is not the Agency Director or the Director of the Public Works Department. The appeal shall be conducted in accordance with the procedures set forth for application appeals in Section 14-84(h) of the Code.

## Section 2. Severability.

If any portion of this Ordinance is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be legally applied to any individual, group, entity, property, or circumstance, such

determination will not affect the applicability of this Ordinance to any other individual, group, entity, property, or circumstance.

Section 3. Inclusion in the Broward County Code of Ordinances.

It is the intention of the Board of County Commissioners that the provisions of this Ordinance become part of the Broward County Code of Ordinances as of the effective date. The sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase to the extent necessary to accomplish such intention.

Section 4. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

By: /s/ Matthew Haber 11/30/2023  
Matthew Haber (date)  
Assistant County Attorney

By: /s/ Nathaniel A. Klitsberg 11/30/2023  
Nathaniel A. Klitsberg (date)  
Senior Assistant County Attorney

MH/tb  
Collection and Disposal of Solid Waste Ordinance  
#1056466v7  
11/30/2023

Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.