

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33 Ordinances are hereby repealed in their entirety, and new Sections 14-78 through 14-84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.

44 *Code* means the Broward County Code of Ordinances.

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

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

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

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

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

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

62 *Recyclable Material* is defined to include the meanings contained in both Sections
63 14-71 and 27-214 of the Code.

64 *Regulated Garbage* means any Garbage, Solid Waste, other waste, debris,
65 substance, constituent, object, or material described in, or regulated pursuant to, 7 C.F.R.
66 §§ 330.400 through 330.403 or 9 C.F.R. § 94.5.

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

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

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

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

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

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

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

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

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

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

103 Licensees and others authorized to engage in Collection Services (including,
104 without limitation, the collection, transportation, and/or disposal of Regulated Garbage
105 described in, or regulated pursuant to, 7 C.F.R. §§ 330.400 through 330.403 or 9 C.F.R.
106 § 94.5) within any Service Area shall be required to pay fees to the County in amounts
107 established by the Board and either provided for in the Administrative Code or in the
108 Licenses or other written agreements entered into between the County and those
109 engaged in the Collection Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

263 (1) *Designation of disposal site(s)*. Each Licensee must deliver all Solid Waste
264 collected within the Open Market Area to a disposal facility of the Agency
265 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

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

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

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

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

327 Section 2. Severability.

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

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

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

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

340 Section 4. Effective Date.

341 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.