

ORDINANCE NUMBER 2017-08

AN ORDINANCE OF THE CITY COUNCIL OF MIDWAY, FLORIDA; RELATING TO THE PROVISION OF MANDATORY RESIDENTIAL SOLID WASTE COLLECTION SERVICES THROUGH THE USE OF SERVICE AGREEMENTS WITH INDEPENDENT CONTRACTORS; PROVIDING CERTAIN DEFINITIONS AND LEGISLATIVE FINDINGS; AUTHORIZING THE APPROVAL OF SERVICE AGREEMENTS WITH INDEPENDENT CONTRACTORS; PROVIDING FOR MANDATORY RESIDENTIAL SOLID WASTE COLLECTION; PROVIDING THE RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNERS AND OCCUPANTS; PROHIBITING THE UNAUTHORIZED COLLECTION OR DISPOSAL OF SOLID WASTE; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FOR TREATMENT OF PUBLIC NUISANCES; PROVIDING PROCEDURE FOR ENFORCEMENT; PROVIDING THAT PROCEDURES IN ORDINANCE ARE SUPPLEMENTAL AUTHORITY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 34, Article II of the Code of Ordinances of the City of Midway, Florida, (the “City Code”), makes provision for the City’s solid waste collection and disposal; and

WHEREAS, the City Council of the City of Midway, Florida has, determined that it is in the best interest of the citizens of the City of Midway to enter into an exclusive franchise agreement with a private company for the collection and disposal of solid waste generated within the City of Midway; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF MIDWAY, FLORIDA:

ARTICLE 1

INTRODUCTION

SECTION 34-1 LEGISLATIVE FINDINGS. It is hereby ascertained determined, and declared that:

(A) Pursuant to Article VIII, section 2 of the Florida Constitution and section 166.021, Florida Statutes, the City of Midway, Florida shall have the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited and/or preempted by law.

(B) Pursuant to section 180.13, Florida Statutes and the City Code, the city council of the City of Midway, Florida has the responsibility and authority to provide for the designation and operation of Solid Waste management facilities to meet the needs of the areas within Midway, Florida.

(C) The regulation of the collection and transport of Solid Waste generated within the City provides a public purpose and promotes the health, safety, and welfare of the citizens of Midway, Florida.

(D) There has been and continues to be an inordinate amount of illegal dumping and burning of Solid Waste on the public rights of way and private lands of Midway, Florida, necessitating regulation of Solid Waste collection and disposal practices within Midway, Florida.

(E) The City Council of Midway, Florida finds and determines that a substantial number of residents of the City would not subscribe to Solid Waste collection and disposal service unless such service is mandatory.

(F) It is necessary for the health, welfare and safety of the citizens and residents within Midway, Florida that the services for collection and disposal of Solid Waste be regulated through the use of an exclusive Service Agreement.

(G) It is the intent of the City Council to require all Residential Property with Midway, Florida to have Solid Waste collected and disposed of in a proper, sanitary, and efficient manner; to provide all Persons with a sanitary and efficient means of having their Solid Waste collected and disposed of; to eliminate illegal dumping; and to promote the health, safety, and welfare of the citizens of Midway, Florida.

(H) It is the intent of the City Council that the collection and hauling of Solid Waste shall be conducted only by those businesses authorized to do so by the City by Service Agreement, and that all disposal shall be conducted only at authorized designated Solid Waste facilities.

SECTION 34-2 DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires.

“Garbage” means any putrescible animal, fruit or vegetable refuse matter, whether cooked or raw, or any can, container, or other material from which any animal, fruit or vegetable matter has been removed, which might become sour, spoiled, rotten or putrid and from which obnoxious odors are liable to be emitted or to which flies or other insects are liable to be attracted, or any paper, bags, sacks, cartons, containers, and boxes which have not come in contact with animal, fruit, or vegetable matter or from which obnoxious odors cannot be emitted and to which flies and other insects will not be attracted.

“Trash” means any yard clippings, grass cuttings, leaves, small tree limbs, discarded items of household furniture, electronics and appliances and such other small or large rubbish as ordinarily accumulates about residential or commercial premises.

“Waste” means and includes any sand, wood, stone, brick, cement, concrete, roofing and other refuse building materials usually left over from a construction or remodeling project, and also, trees, tree trunks, and tree stumps.

“Bulk Waste” means any garbage, trash, and/or waste that require additional management due to its size or weight, which weighs greater than fifty (50) pounds.

“Extraordinary Waste” means an item of such bulk or weight so as to prevent two (2) Persons from lifting it or to require extraordinary management including, but not limited to: abandoned automobiles, boats, recreational vehicles, and tree trunks weighing more than fifty (50) pounds.

“Abandoned Property” means all tangible personal property which does not have an identifiable owner, and which may or may not be substantially operable, functioning, or have an apparent intrinsic value to the rightful owner.

“Contractor” means a firm specially authorized by a Service Agreement with the City of Midway, Florida to collect, transport, and dispose of Solid Waste within Midway, Florida.

“Department” means the City of Midway Public Works Department or its successor entity. The head administrator (or named equivalent) of the City of Midway Public Works Department shall be the City designee primarily responsible for the administration of this Ordinance.

“Garbage Receptacle” means the solid waste container provided by the Contractor to all Residential Property owners for the placement and collection of Solid Waste.

“Hazardous Waste” means Solid Waste, or a combination of Solid Wastes, which, because of its quantity, 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 wastes shall include, but not be limited to, toxic chemicals, corrosive materials, reactive chemicals, flammable wastes, explosives and certain items found in the home including but not limited to: pool chlorine, paint thinner, and pesticides. For the purpose of this Ordinance, Hazardous Waste also means waste material or a substance identified as a hazardous substance in the Florida Administrative Code, Florida Statutes, or applicable law.

“Multifamily Residential Property” means Residential Property containing more than one separate residential dwelling unit designed for occupancy by a single family located in a commons structure, which units are not customarily offered for rent for one day, and shall include apartments, townhouses, and condominiums.

“Person” means an individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

“Public Nuisance” means any accumulation of Solid Waste, Abandoned Property or Hazardous Waste placed not in compliance with the regulations of this Ordinance.

“Residential Collection Service” means service to Residential Property, including Multifamily Property having four (4) or less units in a common structure, or located on a single

property with the following property types: single family homes, mobile homes, multifamily residential units, condominium units, and other miscellaneous residential units.

“Residential Property” means property designed for residential occupancy, consisting of one or more rooms which are arranged, designed or used as living quarters and including Multifamily Residential Property containing four (4) units or less.

“Service Agreement” means an agreement executed by the City and awarded to certain Solid Waste Contractors”

“Service Area” means the areas within the territorial boundaries of the Midway, Florida which are serviced by a Solid Waste Service Agreement granted by the City Council.

“Sludge” means any solid or semi-solid or liquid generated from any water or wastewater treatment plant, air pollution control facility, septic tank, grease trap, portable toilet and related operations, or any such waste having similar characteristics or effect.

“Solid Waste” means, generally, any garbage, trash, and/or waste excluding Extraordinary Waste, and Hazardous Waste that may not be deposited at any authorized solid waste facilities as set forth in the Florida Administrative Code, the Florida Statutes, or other applicable law.

"Yard Waste" means Solid Waste that is an accumulation of lawn grass, shrubbery cuttings, clippings, leaf rakings, palm fronds, tree branches, bushes or shrubs, green leaf cuttings, fruits or other vegetative matter generally created as refuse in the care of lawns and yards that does not exceed six (6) feet in length and fifty (50) pounds in weight. This does not include large branches, trees, or bulk and non-containerized material not susceptible to normal loading

and collection into sanitation equipment used for regular collection from domestic households. Bundled limbs and tree trunks from tree trimmings not exceeding six (6) feet in length and weighing less than fifty (50) pounds may be placed at the curbside for residential pick-up. Loose, unbundled or untied palm fronds up to fifty (50) pounds in weight may be placed neatly at the curbside for residential pick-up.

SECTION 34-3 INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “shall” or “will” are mandatory; the term “may” is discretionary; the terms “hereof,” “herein,” “hereto,” “hereunder,” and similar terms refer to this Ordinance; and the term “hereafter” means after, and the term “heretofore” means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

ARTICLE II

SOLID WASTE COLLECTION

SECTION 34-31 SERVICE AGREEMENTS. The City of Midway, Florida may enter into an exclusive Service Agreement with a responsible, independent Contractor for the performance of the Solid Waste collection services herein contemplated within the areas of Midway, Florida, and shall, as part of such Service Agreement, prescribe the Service Area of the Contractor, the method, frequency, times, and places of collection, the fees for such services, the billing and collection of such fees, and all other details relating to such service, not inconsistent with the terms of this Ordinance.

SECTION 34-32. MANDATORY SOLID WASTE COLLECTION.

(A) Unless exempted from the provisions of this Article or burned under a valid permit, during the term of any Service Agreement authorized by Section 34-31, all Solid Waste generated on Residential Property within Midway, Florida shall be collected, conveyed, and transported to an approved Solid Waste facility by the designated Contractor.

(B) All owners and/or occupants of Residential Property shall subscribe with the Contractor for such services. The owners of all such Residential Property will be responsible for the use of such service by all occupants of the property and shall be responsible for the payment of all charges in accordance with the applicable Service Agreement. Charges for such beneficial services include the cost of collection, disposal, and administration, including the payment of any delinquent amounts owed, and may be collected pursuant to any method authorized by law, including but not limited to, the imposition of fees collected by the Contractor or as a non-ad valorem assessment pursuant to the provisions of § 197.3632, Florida Statutes.

SECTION 34-33. RESPONSIBILITIES OF RESIDENTIAL PROPERTY OWNERS.

(A) Unless special arrangements are made with the Contractor, all owners and occupants of Residential Property within Midway, Florida shall place all Garbage Receptacles within five (5) feet of the edge of the pavement abutting the Residential Property no later than 6:00 a.m. on the days designated by the Contractor for Solid Waste Collection.

(B) Garbage Receptacles shall be removed from the roadside by the end of the day on which the Solid Waste was collected.

(C) All owners of Residential Property shall be obligated to pay a charge, as determined in the Service Agreement, for Solid Waste collection and disposal services.

SECTION 34-34. UNLAWFUL DISPOSAL OF SOLID WASTE.

(A) No Person shall throw, place, or dispose, or cause to be thrown, placed or disposed, any Solid Waste in such a manner that such Solid Waste may be carried or deposited by elements upon any sidewalk, alley, street, or other public place, provided however, this Section shall not prohibit the placement of clean fill upon private land. Compost heaps shall be excluded from the provisions of this section.

(B) No Person shall throw, place or dispose, or cause to be thrown, placed or disposed, any Solid Waste of any kind into or on any of the public streets, roads, highways, bridges, alleys, lanes, thoroughfares, waters, canals, or vacant lots or lands.

(C) No Person shall throw, place or dispose, or cause to be thrown, placed or disposed, any Solid Waste of any kind upon the premises of any other Person except for processing of Yard Waste or recoverable materials at a Florida Department of Environmental Protection (FDEP)-approved facility, or as specifically authorized by the City Council for the disposal of other Solid Waste.

(D) It is unlawful for any Person to collect, transport, or dispose of Solid Waste, excluding Yard Waste, whether or not for hire, remuneration, or other consideration in any form whatsoever, without first obtaining or holding a Service Agreement or a construction and/or demolition contractor's license from the State of Florida and any required permit(s) from Midway, Florida.

(E) Violation of the provisions of this section of the Ordinance may be enforced in accordance with the procedures described herein.

SECTION 34-35. EXEMPTIONS.

(A) The prohibition on the collection, transportation, or disposal of Solid Waste in this Ordinance shall not apply to the collection, transportation and disposal of: (1) Hazardous Waste; (2) Special Waste; (3) wrecked, scraped, ruined or dismantled motor vehicles, boats, motor vehicle parts or other Extraordinary Waste requiring special treatment; or (4) other items which a Contractor is not required to pick-up under this Ordinance or the Service Agreement. Hazardous Waste and Special Waste shall be kept, stored or disposed of in the manner prescribed by the laws and administrative regulations of the United States and of the State of Florida and in a facility approved for such waste.

(B) The prohibition on the collection, transportation, or disposal of Solid Waste in this Ordinance shall not apply to the disposal of Solid Waste by feeding or delivering for feeding to animals, when such act is accomplished otherwise in accordance with the laws of the State of Florida.

(C) The prohibition on the collection, transportation, or disposal of Solid Waste in this Ordinance shall not apply to parcels to which a Contractor has no access, including parcels located adjacent to roads that are inaccessible to the Contractor's collection vehicles.

(D) The prohibition on the collection, transportation or disposal of Solid Waste in this Ordinance shall not apply to the Owner any parcel that has a direct commercial Solid Waste Contract with a Contractor. No exemption shall be granted under this paragraph unless the property Owner provides the City with a copy of its current agreement with a Contract for Solid Waste Collection services at the Owner's business and a signed affidavit stating that the Owner

does not receive Residential Collection Service and intends to dispose of its Solid Waste at the business address.

(E) Any person for who an exemption is applicable shall provide for the delivery of his or her Solid Waste to an appropriate disposal facility. No such Person shall place or allow the placing of his or her Solid Waste in or about any City-owned or -operated Garbage Receptacle or Commercial Container.

ARTICLE IV

GENERAL PROVISIONS

SECTION 34-101 ABATEMENT OF PUBLIC NUISANCE.

(A) Any unauthorized accumulation of Solid Waste on any premises in Midway, Florida for a period in excess of seven (7) days is hereby declared to be a Public Nuisance and is prohibited.

(B) Curbside placement of Solid Waste in a manner not in compliance with this Ordinance constitutes a Public Nuisance and is prohibited.

(C) The creation or maintenance of a backyard compost pile shall be considered recycling, not disposal or unauthorized accumulation.

(D) The City of Midway has the power and authority to investigate and enforce the provisions of this Ordinance with respect to all Solid Waste accumulations or placements constituting a Public Nuisance. Enforcement action may be taken against a property owner, tenant, or both, as appropriate, in accordance with the procedures as described in this Ordinance.

SECTION 34-102. ENFORCEMENT ACTION.

A violation of this Ordinance shall be prosecuted as provided in section 162.21, Florida Statutes; however, in addition to or in lieu of any criminal prosecution, the City of Midway shall have the power to sue in civil court seeking recourse to any remedies available at law or equity or to use the code enforcement process as provided by Chapter 162, Florida Statutes, to enforce the provisions of this Chapter.

SECTION 34-103. SEVERABILITY.

The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 34-104. SUPPLEMENTAL AUTHORITY.

Except as expressly provided for elsewhere in this Ordinance, this Ordinance shall not be construed as repealing or superseding any City of Midway Ordinances and consistent provisions therein, or Florida Statutes or Laws, and shall be construed as providing alternative or supplemental authority for the exercise of all powers granted and provided for herein. This Ordinance shall be read in concert with the Florida Statutes as it may be amended or renumbered from time to time.

SECTION 34-105.

EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Department of State within ten (10) days after enactment by the Board and the Ordinance shall take effect as provided by law.

First reading was held October 5, 2017.

PASSED and ADOPTED in regular session, with a quorum present and voting, by the City Council, upon second and final reading this November 2, 2017.

CITY COUNCIL OF THE CITY OF
MIDWAY, FLORIDA

By: Wanda J. Range
City of Midway Mayor, Wanda Range

ATTEST:

By: Frances Harrell
Midway City Clerk Frances Harrell

