

ORDINANCE NO. 2021-27

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 56, SOLID WASTE, ARTICLE II, COLLECTION AND DISPOSAL SERVICE, UPDATING REQUIREMENTS FOR GARBAGE, RECYCLING AND YARD WASTE SERVICE, REMOVING THE ENERGY FEE, PROVIDING FOR AN AUTOMATIC CPI ADJUSTMENT FOR CHARGES AND RATES; AMENDING BILLING REQUIREMENTS; DELETING OBSOLETE BILLING PROVISIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in order to provide for the sound management of Residential and Commercial Solid Waste, to continue to reduce the volume of Residential and Commercial Waste disposed in sanitary landfills through recycling and to continue to promote more efficient Residential and Commercial Solid Waste Disposal; and

WHEREAS, in order to maintain a safe and beautiful City and protect the integrity, value and character of residential neighborhoods, requirements need to be updated and rates adjusted for garbage, recycling and yard waste service; and

WHEREAS, it is in the best interest of the public health, safety and welfare that this ordinance be adopted; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Port Orange, Florida, hereby amends Chapter 56, Solid Waste, Article II Collection and Disposal Service, of the City of Port Orange Code of Ordinances to read as follows:

Sec. 56-26. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business or commercial shall apply to any establishment or firm wherein a business or commercial occupational license is required by the city, except as otherwise provided herein.

Construction and demolition debris means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt, roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

Contaminated recyclable material means recyclable material that is comingled or mixed with solid waste or other material.

~~*Coordinator* means the coordinator of the solid waste division of the department.~~

Department means the public works department for the city.

Garbage means every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetables, and any refuse accumulation of paper, wooden or paper boxes, containers, sweepings, and all other accumulations of a nature usual to housekeeping. Garbage shall not include any recyclable material or yard waste.

Garbage can means a galvanized metal or plastic can of the type commonly sold as garbage cans of a capacity not to exceed 32 gallons or 50 pounds. Such cans are required to have handles on the sides of the can by which it may be lifted. Each can shall have a tightfitting top or cover.

Mobile home park or trailer park means any business enterprise maintaining premises for the rent of mobile home sites, and each mobile home contained on such park shall be considered as a separate unit whether the same is permanently affixed to the realty or not.

Multiple dwelling means a structure or structures having more than one single-family unit and shall include apartment buildings, motels and hotels.

Recyclable material means those materials which are capable of being recycled and which would otherwise be processed or disposed of as garbage. Recyclable material shall include but not be limited to plastics, newspapers, glass containers, aluminum cans, and other similar materials.

Recycling means any process by which garbage, or materials which would otherwise become garbage are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Residence means a single-family unit.

Roll-off container means a ten-, 15-, 20-, 30- or 40-yard container.

Solid waste manager means the manager of the solid waste division of the Department.

Travel trailer park means any business enterprise maintaining premises for the rent of trailer or camp sites for campers or travel trailers.

Yard waste means all reasonable accumulations of grass, trees, shrubbery or weed cuttings, pine needles, grass clippings, branches, palm fronds, other vegetation trimmings, and other refuse incident to the care of lawns, shrubbery, vines, trees and gardens. The term "yard waste" shall not be taken to include used or broken appliances, furniture, bedding, building materials, lumber, logs or other material of like nature.

Sec. 56-27. Scope of service.

- (a) No human or animal excrement will be picked up or transported by the public works department or by any franchisee.
- (b) Basic garbage service will include twice weekly pickup of three cans of garbage or equivalent containers per residence and five garbage cans per commercial activity. Garbage in excess of the quantity specified ~~will~~ may require an additional charge as prescribed by resolution of the city council.
- (c) ~~Basic~~ Residential recycling service will include once weekly pickup of recyclable material placed in one or more containers approved by the city and designated for recycling purposes.

Any recycling container used for the collection or storage of non-recyclable materials and/or contaminated recyclable material will not be picked up.

Commercial recycling service is open market and the responsibility of the commercial customer to secure recycling services.

- (d) Basic yard waste service will include once a week pickup of yard waste material from the property which is bagged in garden-size plastic bags, boxed or bundled. All yard waste shall be no greater than four feet in length and no more than eighteen inches in diameter. Bundles of branches shall be securely tied with string, rope, cord or twine so as to facilitate handling. Bundled materials shall not exceed four feet in length by four feet in width by four feet in height and each bundle shall not exceed

4050 pounds in weight. Accumulations or piles of yard waste that are not properly bagged, boxed or bundled will be picked up by city crews or employees of a franchisee and ~~will~~ may be subject to a special handling charge as prescribed by resolution of the city council.

Sec. 56-28. Container service for large producers.

- (a) The ~~coordinator~~ solid waste manager shall assign to the large producers cubic yard containers provided by the city or a franchisee and will designate placement in one or more areas. The city or franchisee will maintain the containers' structure, provide paint, etc. The producer will maintain the container in a sanitary condition by cleaning and disinfecting in accordance with state and local health regulations. The producer will also ensure that a firm foundation is provided under each canister to prevent rollover. The ~~coordinator~~ solid waste manager shall have the authority to change commercial can customers to commercial containers when the volume of trash is warranted.
- ~~(b) The cost of any special attachment such as wheels, etc., to any container shall be paid by the customer.~~
- ~~(c)~~ (b) Costs for container service shall be as specified by resolution of the city council.

Sec. 56-29. Service charges and rates.

- (a) The city shall maintain and operate, or franchise, a service for the collection and disposal of garbage, recyclable material and yard waste, and all persons whose premises are serviced thereby shall pay to the city for the use of such service rates as are set by resolution adopted by the city council.
- (b) The city council shall establish the rate by resolution for solid waste collection and disposal, including the costs of garbage, recycling, yard waste, landfill, street sweeping and other costs for the service. ~~The city council shall adjust the rate as determined necessary by the city council to ensure adequate revenue for the operation of the solid waste enterprise fund and to satisfy good accounting and business practices. All rates for service shall be reviewed at least annually in conjunction with the preparation of the annual operating budget. All rates will be adjusted annually by the amount of the percentage change in the Consumer Price Index (CPI), "Garbage and trash collection in U.S. city average, all Urban Consumers, not seasonally adjust" published by the U.S. Department of Labor, Bureau of Labor Statistics, and determined by comparing the CPI from April 1 of the preceding calendar year until March 31 of the present calendar year or 5% whichever is less. The adjusted rate will be applied to all billings for services dated on or after October 1 of each year. The percentage change in the Consumer Price Index will be applied to the charges as follows:~~
 - (1) Multiply the percentage change in the Consumer Price Index from April 1 of the preceding calendar year through March 31 of the present calendar year times the existing charges. The Consumer Price Index used to make this

calculation will be the same as the index required to be used for cost adjustments in the city refuse contract.

- (2) Add the product as determined in subsection (b)(1) of this section to the existing charges and round to the nearest cent.

This annual adjustment will be applied automatically to all billings for services dated on or after October 1 of the year in which the adjustment is made. City council may adopt an annual rate increase that is less than the annual adjusted amount set forth in this subsection by resolution of city council.

- (c) The issuance of a certificate of occupancy to any residential or commercial property in the city is prima facie evidence of the need for garbage, recycling and yard waste service. All such residences properties within the city shall be charged monthly the rates adopted by resolution of city council regardless of whether the premises are occupied and regardless of whether services are being utilized. Payment of the monthly charge shall be the responsibility of the owner or customer of record of the residence or commercial property. The service charge may be prorated on an person's initial and final utility bill to reflect actual days of service.
- (d) Notwithstanding the foregoing, the The owner of a trailer park or mobile home park which is served water through a master meter shall, before the 15th day of each month, declare the number of vacant lots occupied units by lot number or address on their respective premises and shall furnish the information to the city clerk or designee customer service department, and such trailer parks or mobile home parks shall be billed on the basis of occupied the vacant lot rate and unoccupied units as outlined in the rate resolution adopted by city council for each vacant lot reported. The owner shall immediately notify the city once a property in vacant lot status is no longer vacant. The city, at any time through its employees or agents, may periodically check the use of any trailer parks or mobile home parks for the purpose of ascertaining if there is a discrepancy on the part of the owner's or operator's declarations of vacant lot status use, and checks thereof by the city and the city's investigation will prevail unless reversed on appeal to the city council. Vacant lot for purposes of this section means an empty lot with no building or other structure on it. Master meter for purposes of this section means a single meter serving all lots within a mobile home park or trailer park.
- (e) Should any person fail to pay the prescribed service charges when same become due and payable, the city manager shall have the authority to disconnect and discontinue water service and/or garbage service to the premises and such services shall not be reconnected or furnished to the premises until all unpaid service charges are paid in full, together with established reconnection fees for water service.
- (f) Any person who violates the provisions of this article or any rule or regulation promulgated pursuant to this article shall be subject to the penalties provided in section 1-8 of this Code. The procedures set forth in this section provide an additional or supplemental means of obtaining compliance with this article. Nothing contained in this section shall prohibit the city from enforcing this article by any other means, including, but not limited to code enforcement proceedings. For improperly reporting a vacant or unoccupied status or failing to update the status within 30 days of the

change, a separate violation shall be assessed for each lot or unit and for each month the violation occurs.

~~An energy fee shall be levied based on the fuel cost and any adjustment thereto.~~

~~This energy fee shall be charged or credited to customers. The energy fee adjustment shall be calculated on a systemwide basis allocating the percentage of increase or decrease to the initial fee in accordance with the adjustment calculation, attached hereto as exhibit A.~~

~~The energy fee shall be established by resolution of the city council. After the six-month base period, commencing on the effective date of the contract and concluding on the last day of the sixth month following, this energy fee shall be adjusted by resolution semiannually in accordance with the contract. The first adjustment shall be on or after the first anniversary of the effective date of the contract. Energy fee adjustments shall be implemented no later than the first day of the fourth month following the adjustment calculation.~~

[No changes to Section 56-30]

Sec. 56-31. Containers required.

The occupants of each residence, multiple dwelling, business or commercial enterprise and trailer park are required to provide garbage cans and yard waste containers to sufficiently hold the accumulation of garbage and yard waste from each residence, multiple dwelling, business or commercial establishment or trailer park between the days the garbage and yard waste is collected. The city or franchisee shall provide containers designated for recycling purposes to sufficiently hold the accumulation of recyclable material from each residence, multiple dwelling, business or commercial establishment or trailer park between the days such recyclable material is collected.

Sec. 56-32. Wrapping and preparation of garbage; keeping containers covered.

All wet garbage matter shall be ~~wrapped in paper~~ contained in a plastic bag before being placed in garbage cans. ~~Containers shall first be drained of all liquids prior to being~~ No liquids shall be placed in garbage cans. All garbage cans shall be kept tightly covered at all times except when it becomes necessary to lift the covers to deposit garbage in the garbage can or empty such can in a garbage truck.

Sec. 56-33. Preparation of yard waste.

- (a) All yard waste which is absorbent, such as grass and leaves, including fine grass cuttings, shall be contained in the required yard waste containers, except that yard waste containing no combustible matter, which will deteriorate or decay without giving off offensive odors, may be accumulated by the owner as such if maintained

in a neat, orderly and sightly condition. All yard waste shall be separated from garbage prior to pickup.

- (b) ~~No yard waste pickups will be made of vacant lots; provided, however, the owner of any vacant lot may make arrangements with the city or franchisee for pickup of yard waste, and a reasonable charge for such service shall be determined by the coordinator.~~

Yard waste volumes of up to five cubic yards from residential vacant lots will be collected by the city or franchisee. Volumes in excess of five cubic yards are the responsibility of the property owner to properly dispose of. This section does not replace the requirements of section 56-36. Yard waste from vacant commercial property is solely the responsibility of the property owner to properly dispose of.

- (c) Yard waste which is not prepared or separated as required herein will not be picked up ~~but and will~~ shall be a violation of this article.

Sec. 56-34. Location and separation of containers.

(a) Garbage, recycling and yard waste containers when not in use shall be kept away from the front of any building or premises. No garbage, recycling or yard waste container shall be kept or maintained upon or adjacent to any road, alley, street, sidewalk, parkway or front yard and no such container shall be ~~placed~~ kept or maintained within five feet of any property line. No garbage can, recycling container or yard waste container shall be deposited upon any adjoining lot or premises, whether vacant or improved, occupied or unoccupied, or in any sidewalk, road, street, alley or park in the city. Yard waste not required to be in yard waste containers, garbage, recycling and yard waste containers filled for pickup, shall be neatly placed near, but not upon or blocking, the street, alley or road~~roadway~~ on days of garbage, recycling and yard waste pickup so as to be convenient and accessible for collection.

(b) Garbage and recycling shall each be placed and maintained in separate containers.

(c) Garbage, recycling, and yard waste will be collected between 7 a.m. and 7 p.m. on designated days. Containers used for collection shall be placed by the curb or by the edge of pavement (when no curb exists) near, but not upon or blocking, the street, alley or road prior to 7 a.m. on the day of designated collection, but no earlier than 7 p.m. the day prior to service. Containers shall be promptly removed and properly stored after collection but no later than 7 a.m. the next morning.

Sec. 56-35. Inspection of garbage can, recycling and yard waste containers; condemnation.

All garbage cans, recycling containers and yard waste containers shall be subject to the approval ~~and condemnation~~ of the coordinator~~solid waste manager~~. ~~No appeal for such condemnation shall be possible except to the city council.~~

[No changes to Section 56-36]


SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.


SECTION 4. The provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Port Orange and the sections of this ordinance may be renumbered or re-lettered to accomplish such intention. The code codifier is granted liberal authority to codify the provisions of the ordinance.

SECTION 5. This ordinance shall become effective upon final passage by the City Council.




MAYOR DONALD O. BURNETTE

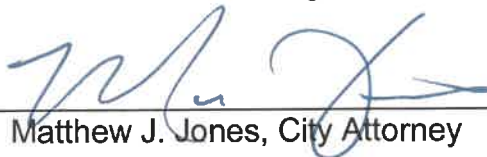
ATTEST:


Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the 19 day of October, 2021.

Passed and adopted on second and final reading on the 2 day of November, 2021.

Reviewed and Approved:


Matthew J. Jones, City Attorney

[CA 7640]