

ORDINANCE NO. 89-6

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, RELATING TO THE DISPOSITION OF SOLID WASTE AND ESTABLISHING A COUNTY-WIDE SOLID WASTE DISTRICT; PROVIDING FOR THE ASSESSING OF ASSESSMENTS AND CHARGES FOR THE DISPOSITION BY THE COUNTY OF SUCH SOLID WASTE; PROVIDING FOR THE COLLECTION OF SUCH SPECIAL ASSESSMENT CHARGES BY THE MAKING AND ENFORCEMENT OF LIENS UPON AND ASSESSMENTS AGAINST REAL PROPERTY AND PROVIDING FOR PAYMENT OF TIPPING FEES FOR THE DISPOSAL OF SOLID WASTE; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

FILED  
89 MAY 10 PM 2:57  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. Findings.

It is hereby found and declared by the Board of County Commissioners of Hernando County:

1. There is an excessive accumulation of Solid Waste on private property; and an inordinate amount of littering on and near public rights of way within Hernando County; and a mounting demand for a comprehensive solid waste disposal and resource recovery system, 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.

2. It is necessary for the promotion of the common interest of the people of the County to provide for the effectuation and financing of a Solid Waste Disposal and Resource Recovery System, and it is necessary to the health, safety and welfare of the citizens and residents of the County to provide an adequate Solid Waste Disposal and Resource Recovery System for all Citizens and interest within the County.

1           3. Because of matters herein aforesated, the County  
2 anticipates the issuance of Solid Waste and Resource Recovery  
3 Revenue Bonds ("Bonds") to finance the acquisition and  
4 construction of Solid Waste Disposal and Resource Recovery System,  
5 which bonds among other things, will obligate the County to impose  
6 by law disposal service charges against real properties or classes  
7 thereof located within the County for use of the Solid Waste  
8 Disposal and Resource Recovery System and to prescribe, fix,  
9 establish and collect rates, fees, assessments, or other charges  
10 for the use of said Solid Waste Disposal and Resource Recovery  
11 System and to pledge such revenues as security for the payment of  
12 Bonds issued under said legal authority for the construction of  
13 the Solid Waste Disposal and Resource Recovery System.

14           4. Section 125.01, Florida Statutes and Section  
15 403.706, Florida Statutes, grant the Board the power to provide  
16 for and regulate Solid Waste collection and disposal.

17           5. It is the purpose of this Ordinance to implement the  
18 provisions of, Chapter 403, Florida Statutes, and the covenants  
19 contained in any ordinance, resolution, or indenture securing the  
20 issuance of the Bonds.

21           6. It is determined by the Board of County  
22 Commissioners, that the establishment and maintenance of a solid  
23 waste assessment unit, as provided for herein, will impart special  
24 benefits upon the real property within such unit for which a  
25 special assessment may be assessed and collected by the County,  
26 within the provisions of state law.

27           7. This Ordinance is adopted under the authority and  
28 power granted the Board under, Section 125.01 Florida Statutes,  
29 Chapter 403 Florida Statutes, and Section 197.3631 Florida  
30 Statutes and other applicable laws.

31  
32 SECTION 2. Definitions.

33           For the purpose of this Ordinance, the definitions  
34 contained in this section shall apply unless otherwise  
35 specifically stated. When not inconsistent with the context,

1 words used in the present tense include the future tense, words in  
2 the plural number include the singular, and words in the singular  
3 number include the plural. Words used herein and not otherwise  
4 defined shall have the meaning given to them in the Act.

5 1. "ANNUAL DISPOSAL ASSESSMENT" means the annual  
6 assessment imposed upon a parcel of real property for the disposal  
7 of Solid Waste for the applicable year based upon the  
8 classification of use of such parcel of property as specified in  
9 the Rate Resolution.

10 2. "ANNUAL DISPOSAL ASSESSMENT ROLL" means the list  
11 prepared by the County and confirmed by the Board each year  
12 containing a summary description of each parcel of real property  
13 within the County, the name and address of the Owner of each such  
14 parcel as indicated on the records maintained by the Property  
15 Appraiser and the assessment authorized by this Ordinance against  
16 each parcel.

17 3. "BOARD" means the Board of County Commissioners of  
18 Hernando County, Florida or the governing body by any other name  
19 in which the general legislative powers of the County are vested.

20 4. "CLERK" means the Clerk of the Circuit Court of  
21 Hernando County, Florida.

22 5. "COUNTY" means Hernando County, Florida.

23 6. "GOVERNMENTAL AGENCY" any local, state, or federal  
24 agency.

25 7. "HAZARDOUS WASTE" means materials or combinations  
26 of material which require special management techniques because of  
27 their acute or chronic effects on air and water quality, on fish,  
28 wildlife or other biota, and on the health and welfare of the  
29 public. These materials include, but are not limited to,  
30 volatile, biological, explosive, flammable, radioactive and toxic  
31 materials.

32 8. "OWNER" means the person or persons owning an  
33 interest in improved real property located within the County.

34 9. "PERSON" means an individual, partnership,  
35 corporation, joint venture, private or public service company or

1 entity, however organized.

2 10. "PROPERTY APPRAISER" means the Property Appraiser  
3 of Hernando County, Florida.

4 11. "RATE RESOLUTION" means the resolution adopted  
5 under the provisions of Section 3 of this Ordinance incorporating  
6 a schedule of annual rates, charges, and assessments to be imposed  
7 upon the Owners of all Real Property in the County.

8 12. "REAL PROPERTY" means all real property located in  
9 the County that generates, or is capable of generating, solid  
10 wastes, and includes, but is not limited to, Improved Commercial  
11 Real Property and Residential Real Property.

12 13. "SOLID WASTE" means garbage and trash, including,  
13 but not limited to, all putrescible and nonputrescible waste,  
14 combustible and noncombustible waste, and generally all materials  
15 such as paper, cardboard, grass clippings, tree or shrubbery  
16 trimmings, scrap wood, bedding, crockery, rubber tires,  
17 construction waste, industrial waste and all other waste  
18 materials.

19 14. "SOLID WASTE DISPOSAL AND RESOURCE RECOVERY SYSTEM"  
20 or "SYSTEM". The "SYSTEM" shall include, by way of enumeration  
21 and not by limitation, County operated or contracted landfills,  
22 digesters and incinerators.

23 15. "SPECIAL WASTES" means any wastes that require  
24 extraordinary management. They include, but are not limited to,  
25 abandoned automobiles, inoperative and discarded refrigerators,  
26 ranges, washers, water heaters, and other similar domestic and  
27 commercial appliances, used tires, waste oil, sludges, dead  
28 animals, septic tank pumpings and infectious and Hazardous Wastes.

29 16. "TAX COLLECTOR" means the Tax Collector of Hernando  
30 County, Florida.

31 17. "TIPPING FEES" means the fees and service charges  
32 fixed annually to be paid to the County for receiving and  
33 disposing of Solid Waste delivered to the System which may be  
34 imposed by the Board for solid waste generated inside or outside  
35 the County or in addition to the Annual Disposal Assessments.

1           18. "YEAR" means the calendar year.

2  
3   SECTION 3. Purpose.

4           It is the purpose of this Ordinance; to establish a  
5 schedule of fees, rates, charges, and assessments for the  
6 disposition of Solid Waste from Real Property in the County to  
7 assist in paying for the costs of the financing and the operation  
8 and maintenance of the Solid Waste Disposal and Resource Recovery  
9 System; and to provide for a method and procedure for the  
10 collection of such established fees, rates, charges and  
11 assessments.

12  
13   SECTION 4. Determination of Annual Disposal Assessments and  
14 Charges; Public Hearing.

15           It is hereby declared that the construction, operation  
16 and maintenance of the Solid Waste Disposal and Resource Recovery  
17 System is a benefit and improvement to all real property in the  
18 County regardless of use and occupancy of such property. The  
19 construction, operation and maintenance of the Solid Waste  
20 Disposal and Resource Recovery System directly improves and  
21 benefits all real property by ensuring a source for the disposal  
22 of Solid Waste being generated, or potentially to be generated, on  
23 such real property that is practical and compatible with the  
24 health and safety of all citizens in the County.

25           On or before the first day of August of each year or as  
26 otherwise required by Chapter 403, Florida Statutes, and after a  
27 public hearing, the Board shall:

28           1. Adopt a budget for the operation and maintenance of  
29 the Solid Waste Disposal and Resource Recovery System for the next  
30 fiscal year.

31           2. Adopt a resolution incorporating a determination of  
32 annual rates, fees, charges, assessments, or service charges to be  
33 imposed upon the Owners of Real Property in the County to be  
34 levied and assessed against the Real Property and collected as is  
35 provided in this Ordinance. The methodology of the assessment

1 levy will be determined annually by resolution.

2 Such rates, fees, charges, assessments, or service  
3 charges shall never exceed the benefits conferred by the County in  
4 providing the Solid Waste disposal services and shall not exceed  
5 the fair and reasonable portion of the cost to the County of  
6 providing the services.

7 3. Assessments upon real property will be derived from  
8 a rate/unit schedule based upon land use activity or projected  
9 activity.

10 4. Adopt a resolution, as necessary, incorporating a  
11 schedule of Tipping Fees to be charged by the County for receiving  
12 and disposing of Solid Waste within the County, for receiving and  
13 disposing of hazardous waste and special waste, and for waste  
14 generated by sources outside the County.

15 5. At any time during the year when it is determined  
16 by the Board of County Commissioners that the previously  
17 established annual rates, fees, charges, assessments, and service  
18 charges will be insufficient to pay all applicable debt service  
19 and operation and maintenance costs of the Solid Waste Disposal  
20 and Resource Recovery System and to satisfy all obligations of the  
21 County under any related bond resolution or trust indenture, the  
22 Board may adopt, levy and collect a Supplemental Tipping Fee.  
23 This Fee shall be collected at the point of disposal of the solid  
24 waste and shall be established in the same manner as the annual  
25 Tipping Fees. The Supplemental Tipping Fee shall be sufficient  
26 when coupled with the annual rates, fees, charges, assessments, or  
27 service charges to fund debt service and operation and maintenance  
28 for the remainder of the fiscal year. Said Fee shall remain in  
29 effect until funds from the subsequent annual rates, fees,  
30 charges, special assessments or service charges are sufficient to  
31 cover costs of operation and maintenance and all other obligations  
32 of the County under any related bond resolution or trust  
33 indenture.

34 In fixing Tipping Fees, the Board may reasonably  
35 classify types of Solid Waste.

1 Notice of the time, place and purpose of the public  
2 hearing required by this Section shall be given by publication in  
3 a newspaper of general circulation in the County once each week  
4 for two weeks prior to the hearing.

5 6. If the Board so determines that there is no  
6 requirement for an annual assessment their need be none adopted  
7 for a particular year. If tipping fees are not required either,  
8 then they need not be levied for a particular year.

9  
10 SECTION 5. Annual Disposal Assessment Scope.

11 The Annual Disposal Assessment incorporated in the Rate  
12 Resolution adopted under Section 4 of this Ordinance is applicable  
13 to each parcel of Real Property within the County and shall be the  
14 rate and charge for each Unit multiplied by the number of Units on  
15 each parcel.

16 The Annual Disposal Assessments shall be imposed against  
17 the Owners of all real property in the County as of the last day  
18 of the year preceding the year for which the Annual Disposal  
19 Assessment is imposed regardless of the occupancy of such property  
20 on said date.

21  
22 SECTION 6. Annual Disposal Assessment Lien.

23 Such service charge shall be a lien upon the land so  
24 assessed prior in superiority to all other liens and assessments  
25 against said lands, equal in rank to county ad valorem taxes,  
26 until said charges are paid. Said charges shall become a lien on  
27 said lands from October 1 of the year for which said charge is  
28 made and shall be payable on or after November 1 of the same year  
29 without discounts to the Tax Collector, but shall not become  
30 delinquent unless unpaid on April 1 of the following year. The  
31 County Tax Collector shall, upon payment of the County taxes  
32 against any property subject to said service charge, collect  
33 therewith said service charge unless such charge shall have been  
34 sooner paid.

35

1     SECTION 7. Annual Disposal Assessment Roll.

2             Upon adoption by the Board of the Rate Resolution  
3     provided in Section 4 of this Ordinance and not later than  
4     September 1 thereafter, the County shall cause to be prepared an  
5     Annual Disposal Assessment Roll. Such roll shall contain a  
6     summary description of each parcel of Real Property within the  
7     County on the 1st day of January of the year in which the Annual  
8     Disposal Assessment is to be imposed, the name and address of the  
9     Owner of each such parcel, the number of Units on each parcel of  
10    real property and the amount of the Annual Disposal Assessment  
11    applicable to each parcel of Real Property. The summary  
12    description of each parcel of Real Property shall be in such  
13    detail as to permit ready identification of each parcel on the  
14    real property assessment roll. The information specified above to  
15    be included in the Annual Disposal Assessment Roll shall conform  
16    to that maintained by the Property Appraiser on the real property  
17    assessment roll.

18            Upon the completion of the preparation of the  
19    Annual Disposal Assessment Roll, the Board shall cause to be  
20    published in a newspaper of general circulation in the County once  
21    each week for two consecutive weeks, notice that the Board on a  
22    specified date at a regular or special meeting will hear testimony  
23    as to the amount of any assessment. At such meeting, the Board  
24    will review the Annual Disposal Assessment Roll prepared by the  
25    County. The Board shall make such changes or additions as  
26    necessary to conform such roll with the Rate Resolution. If upon  
27    the completion of such review, the Board shall be satisfied that  
28    the Annual Disposal Assessment Roll has been prepared in  
29    conformity with the Rate Resolution, it shall ratify and confirm  
30    such roll and certify the roll to the Property Appraiser for  
31    inclusion in the Tax Roll.

32  
33     SECTION 8. Annual Disposal Assessment Roll - Correction.

34            No ministerial act of omission or commission on the part  
35    of the County, Property Appraiser, Tax Collector, Board or Clerk



1 shall operate to defeat the levy of the Annual Disposal Assessment  
2 imposed by the Board under the provisions of this Ordinance.  
3 Provided, however, any ministerial acts of omission or commission  
4 may be corrected at any time by the officers or party responsible  
5 for them in like manner as provided under this Ordinance for  
6 performing such acts in the first place, and when so corrected  
7 they shall be construed as valid ab initio and shall in no way  
8 affect any process by law for the enforcement of the Annual  
9 Disposal Assessment imposed under the provisions of this  
10 Ordinance.

11  
12 SECTION 9. Payment of Annual Disposal Assessment. Delinquent.

13 The Tax Collector is hereby vested with the power, and  
14 it shall be his/her duty, to collect payments of all Annual  
15 Disposal Assessments. The Tax Collector shall distribute the  
16 Annual Disposal Assessments collected in the manner provided under  
17 law for the distribution to each taxing authority of taxes  
18 collected and under the indenture.

19  
20 SECTION 10. Failure to Include Real Property on Annual Disposal  
21 Assessment Roll.

22 When it shall appear that any Annual Disposal Assessment  
23 should have been assessed under the provisions of this Ordinance  
24 against any parcel of Real Property, but such parcel of Real  
25 Property was omitted from the appropriate Annual Disposal  
26 Assessment Roll because of error, the Board shall assess the  
27 applicable Annual Disposal Special Assessment for the year in  
28 which such omission is discovered plus the unpaid applicable  
29 Annual Disposal Assessment for the prior two (2) years if such  
30 Real Property was subject to an Annual Disposal Assessment for  
31 either of such prior two (2) years.

32  
33 SECTION 11. Tipping Fees.

34 Tipping Fees for the receipt and disposition by the  
35 County of Solid Waste from sources other than Real Property within

1 the County and Supplemental Tipping Fees shall be collected by the  
2 County directly. In addition, in the event the Annual Disposal  
3 Assessment is ever determined by a court of competent jurisdiction  
4 to be invalid the Board of County Commissioners is hereby  
5 authorized to utilize tipping fees as authorized herein to finance  
6 operation and maintenance of the Solid Waste Disposal and Resource  
7 Recovery System and to fund all obligation under any bond  
8 resolution or trust indenture.

9  
10 SECTION 12. Annual Disposal Charge to Governmental Agencies.

11 All Governmental Agencies owning Real Property within  
12 the County shall pay the Annual Disposal Assessment imposed under  
13 the provisions of this Ordinance as specified in the Rate  
14 Resolution adopted under the provisions of Section 4 of this  
15 Ordinance.

16  
17 SECTION 13. Applicability of Annual Disposal Service Charge to  
18 Tax Exempt Improved Real Property.

19 The exemption of property from taxation under Florida  
20 Statutes, Chapter 196 or any other law or Constitutional provision  
21 shall not relieve the Owner of any Real Property in the County  
22 from the provisions of this Ordinance or from the imposition by  
23 the Board of the Annual Disposal Assessment applicable to such  
24 property as specified in the Rate Resolution adopted under the  
25 provisions of Section 4 of this Ordinance. The provisions of this  
26 Ordinance and the Annual Disposal Assessment imposed by the Board  
27 shall be fully applicable to such Real Property.

28  
29 SECTION 14. Special Waste.

30 (A) Special Waste generated in County or brought into  
31 the County for disposal which cannot be handled by the County  
32 pursuant to law or permit conditions established by agencies of  
33 governments having jurisdiction over Solid Waste disposal shall  
34 not be delivered to the System but shall be handled and disposed  
35 of as is or may be provided by State or Federal law or County

1 ordinance entirely at the expense of the Person or Governmental  
2 Agency responsible for creating it or bringing it into the County.

3 (B) As to Special Waste which may be lawfully handled  
4 by the County, the County may incorporate in the Rate Resolution  
5 adopted under Section 5 of this Ordinance, a surcharge in addition  
6 to the Annual Disposal Assessment and Tipping Fees.

7  
8 SECTION 15. Services.

9 The Property Appraiser and the Tax Collector shall be  
10 paid for the services rendered pursuant to this Ordinance such  
11 fees and expenses as may be agreed upon between them and the  
12 Board.

13  
14 SECTION 16. Partial Invalidity.

15 If any section, subsection, sentence, clause, phrase or  
16 portion of this Ordinance is for any reason held invalid or  
17 unconstitutional by any court of competent jurisdiction, such  
18 portion shall be deemed a separate, distinct and independent  
19 provision and such holding shall not affect the validity of the  
20 remaining portions of this Ordinance.

21  
22 SECTION 17. Effective Date.

23 A certified copy of this Ordinance shall be filed in the  
24 office of the Secretary of State by the Clerk to the Board within  
25 ten (10) days of adoption of this Ordinance, and shall take effect  
26 upon official acknowledgment from that office that said Ordinance  
27 has been filed.

28  
29 ADOPTED in Regular Session this 2nd day of  
30 May, 1989, A.D.

31  
32 (SEAL)

33 BOARD OF COUNTY COMMISSIONERS  
34 HERNANDO COUNTY, FLORIDA

35  
36  
37 ATTEST:

38 Karen Nicolai  
39 KAREN NICOLAI  
Clerk

BY:

Richard C. Killingsworth  
RICHARD C. KILLINGSWORTH  
Chairman