

ORDINANCE NO. 2004 - 50

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA ESTABLISHING A RECYCLING PROGRAM FOR NON-RESIDENTIAL PROPERTY IN THE UNINCORPORATED AREAS OF COLLIER COUNTY; PROVIDING -- FOR INTENT AND PURPOSE; PROVIDING FOR TITLE AND CITATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONSTRUCTION AND INTERPRETATION; PROVIDING DEFINITIONS; PROVIDING FOR THE DESIGNATION OF RECYCLABLE MATERIALS; PROVIDING MINIMUM STANDARDS FOR RECYCLING ON NON-RESIDENTIAL PROPERTY; PROVIDING EXEMPTIONS FROM RECYCLING STANDARDS; PROVIDING FOR VOLUNTARY RECYCLING ON NON-RESIDENTIAL PROPERTY; PROVIDING FOR AN AWARDS PROGRAM FOR RECYCLING ON NON-RESIDENTIAL PROPERTY; PROVIDING FOR A RECYCLING EDUCATION AND PROMOTION PROGRAM; PROVIDING FOR EVALUATIONS OF THE NON-RESIDENTIAL RECYCLING PROGRAM; PROVIDING FOR RECYCLING SERVICE AGREEMENTS; PROVIDING STANDARDS FOR RECYCLING CONTRACTORS; PROVIDING FOR SELF-HAULING; PROVIDING FOR COUNTY RECYCLING CENTERS; PROVIDING FOR VARIANCES; PROVIDING FOR INSPECTIONS, ENFORCEMENT, AND PENALTIES; PROVIDING FOR APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE COUNTY'S CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 403.706(21), Florida Statutes, authorizes local governments to enact ordinances that require the separation and collection of Recyclable Materials; and

WHEREAS, the Board of County Commissioners wishes to increase Recycling in Collier County because Recycling will save energy and natural resources, provide useful products, and prove economically beneficial; and

WHEREAS, the Board also wishes to increase Recycling in Collier County because Recycling will help ensure that the valuable and limited capacity of the County's Naples Landfill is conserved; and

WHEREAS, the Board finds it is necessary for the protection of the public health, safety and welfare of the residents of Collier County to require the Recycling of Recyclable Materials generated on Non-Residential Property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, as follows:

**SECTION ONE: Intent and Purpose.**

It is the intent and purpose of this Ordinance to promote Recycling by: (a) requiring businesses and institutions in unincorporated Collier County to segregate and recycle as many

designated Recyclable Materials as practicable; (b) establishing educational programs concerning Recycling; (c) providing incentives and awards programs that will make Recycling more attractive to the businesses and institutions in unincorporated Collier County; (d) limiting the regulatory impact of this Ordinance on business; and (e) eliminating potential conflicts between the requirements of this Ordinance and the requirements of the County's Land Development Code. By utilizing a balanced combination of incentives and regulations, the Board intends to accomplish its Recycling goals while minimizing the regulatory requirements in this Ordinance. The Board also intends to provide sufficient time for the businesses and institutions in Collier County to comply with the County's new programs.

**SECTION TWO: Title and Citation.**

This Ordinance shall be known and may be cited as the "Collier County Non-Residential Recycling Ordinance".

**SECTION THREE: Applicability.**

This Ordinance shall be applicable only within the unincorporated areas of Collier County.

**SECTION FOUR: Construction and Interpretation.**

This Ordinance shall be liberally construed in order to effectively carry out the intent and purpose of the Ordinance. Where any provision of this Ordinance refers to or incorporates another provision, statute, rule, regulation or other authority, this Ordinance refers to the most current version, including and incorporating any amendments thereto or renumbering thereof. —

**SECTION FIVE: Definitions.**

For the purposes of this Ordinance, the definitions contained in this Section 5 shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely discretionary.

Pursuant to Section 403.7031, Florida Statutes, all definitions in this Section 5 shall be construed in a manner that is consistent with the definitions contained in Section 403.703, Florida Statutes. In the case of any apparent conflict or inconsistency with the definitions contained in Section 403.703, Florida Statutes, the statutory definition shall apply.

- A. Board means the Board of County Commissioners of Collier County, Florida.
- B. Certificate of Operation means the license that a Contractor must obtain from the County before it can Collect Recyclable Materials in the County.
- C. Code Enforcement Board means the entity that is responsible for enforcing the County's ordinances pursuant to Chapter 2, Division 11, of the Code of Laws and Ordinances of Collier County, Florida.
- D. Collect means to gather or pick up Recyclable Materials for transport and delivery to a Recycling Facility.
- E. Contractor means a Person who Collects or transports Recyclable Materials from Non-Residential Property for profit.
- F. County means Collier County, Florida.
- G. County Manager means the County Manager of Collier County or the County Manager's designee.
- H. Customer means an Owner or Generator that enters into a Service Agreement with a Contractor for Recycling services.
- I. De Minimis Amount means the amount of Solid Waste which lawfully may be included in separated Recyclable Materials. A De Minimis Amount of Solid Waste is 10 percent, by volume or weight, whichever is more restrictive, as determined by a measurement or a visual inspection by the County Manager.
- J. Dwelling means any building, or part thereof, intended, designed, used, or occupied in whole or in part as the residence or living quarters of one or more persons, permanently or transiently, with cooking and sanitary facilities. Such term shall not mean a room in a motel or hotel.
- K. Garbage means all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.
- L. Generator means each business, not-for-profit organization and institution (i.e., all Persons except individuals) that generates one or more Recyclable Materials as a result of its activities on Non-Residential Property.
- M. Materials Recovery Facility means a Solid Waste management facility that provides for the extraction from Solid Waste of Recyclable Materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

N. Multi-Family Residence means a group of three or more dwelling units within a single conventional building, attached side by side, or one above another, and wherein each dwelling unit may be individually owned or leased initially on land which is under common or single ownership.

O. Non-Residential Property means real property that is located in an unincorporated area of Collier County and used primarily for: (1) commerce, including but not limited to offices, stores, Restaurants, motels, hotels, recreational vehicle parks, theaters, and service stations; (2) not-for-profit organizations; and (3) institutional uses, including but not limited to governmental facilities, churches, hospitals and schools. The term Non-Residential Property shall not include any Residential Units or undeveloped land.

P. Ordinance means this County Ordinance No. 2004-\_\_.

Q. Organic Waste means Garbage and other similar putrescible Solid Waste, including source separated food waste and food-soiled paper. Organic Waste does not include yard trash.

R. Owner means a Person who owns Non-Residential Property. An Owner also may be a Generator.

S. Person means any and all persons, natural or artificial, including any individual, firm, partnership, joint venture, public or private corporation, or other association, or any combination thereof, however organized; any county; and any local, state or federal governmental agency.

T. Primary Recyclable Material means a Recyclable Material that a Person generates on Non-Residential Property in amounts greater than 96 gallons per month.

U. Recovered Materials means metal, paper, glass, plastic, textile, or rubber materials that have known Recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the Solid Waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste.

V. Recovered Materials Processing Facility means a facility engaged solely in the storage, processing, resale, or reuse of Recovered Materials.

W. Recyclable Materials means those materials that are capable of being Recycled, which would otherwise be processed as Solid Waste, and are designated by the Board pursuant to Section 6 of this Ordinance.

X. Recyclable Materials Container means any box, tub, or other container that is made of metal, hard plastic or other similar material and is suitable for the collection of Recyclable Materials.

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

Z. Recycling Facility means any facility that recycles Recyclable Materials, including but not limited to buy back centers, drop-off centers (both permanent and mobile), designated County Recycling centers, Materials Recovery Facilities and Recovered Materials Processing Facilities.

AA. Residential Unit means a single-family residence, duplex residence and a Multi-Family Residence.

BB. Restaurant means any bar, tavern or other eating or drinking establishment where food or beverages are prepared, served, or sold for profit, either for immediate consumption on or in the vicinity of the premises, or called for or taken out by customers, or prepared prior to being delivered to another location for consumption.

CC. Self-Hauling Certificate means a written certification by an Owner or Generator confirming that the Owner or Generator is collecting and transporting Recyclable Materials to a Recycling Facility.

DD. Service Agreement means a written agreement between a Contractor and an Owner or Generator concerning the collection of Recyclable Materials.

EE. Solid Waste means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or Garbage, rubbish, refuse, special waste, or other discarded materials, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

FF. Substantial Hardship means a demonstrated economic, technological, legal, or other type of hardship.

**SECTION SIX: Designation of Recyclable Materials.**

For the purposes of this Ordinance, Recyclable Materials means paper, cardboard, glass, plastic (Nos. 1 through 7), aluminum, and ferrous metal. The Board may designate other materials (e.g., Organic Waste) as Recyclable Materials if the Board determines that a market

exists for such materials and a cost-effective system is in place for Recycling such materials. Materials shall be deleted from this list of Recyclable Materials if the Board determines that a market no longer exists or a cost-effective system is no longer in place for Recycling such materials.

**SECTION SEVEN: Minimum Standards for Recycling on Non-Residential Property**

A. Each Owner shall: (1) provide Recyclable Materials Containers on the Owner's Non-Residential Property so the Generators located on the Owner's Non-Residential Property may recycle all of the Recyclable Materials that the Generators have designated pursuant to Subsection 7.B., below; and (2) Collect the materials placed in the Recyclable Materials Containers and transport those materials to a Recycling Facility.

B. Each Generator shall diligently attempt to recycle all of the Primary Recyclable Materials that it produces. At least once each year, each Generator shall: (1) consider the list of Recyclable Materials designated by the County pursuant to Section 6 of this Ordinance; (2) consider the types of Recyclable Materials generated by its activities on Non-Residential Property; (3) identify the Primary Recyclable Materials that the Generator produces; and (4) identify (i.e., designate) the Primary Recyclable Materials that the Generator will recycle. Thereafter, each Generator shall separate the designated Primary Recyclable Materials from the Generator's Solid Waste, and the Generator shall place the designated Primary Recyclable Materials in Recyclable Materials Containers for collection.

C. If a Generator's activities do not produce any Primary Recyclable Materials, the Generator shall designate and recycle one or more Recyclable Materials in the manner described in Subsection 7.B, above, unless the Generator is exempt pursuant to Subsection 8.A, below.

D. Each Generator shall coordinate with the Owner of the Non-Residential Property where the Generator's activities occur, and each Owner shall coordinate with the Generators on its Non-Residential Property, to ensure that the Generator's Recyclable Materials are taken to a Recycling Facility.

E. No Person shall dispose of Recyclable Materials that have been separated from Solid Waste pursuant to the provisions of Subsections 7.B or 7.C, above.

F. No Person shall place Solid Waste in a Recyclable Materials Container.

G. No Person shall cause litter or a nuisance. Each Person shall take all necessary steps to ensure that their own Recycling activities do not cause litter or a nuisance. Each Person shall immediately pick up any litter and eliminate any nuisance caused by their own activities.

H. Each Owner shall, upon request, provide the County Manager with a copy of a Service Agreement, Self-Hauling Certificate, or other document (e.g., receipt from a Recycling Facility) demonstrating that the Primary Recyclable Materials generated on the Owner's Non-Residential Property are being taken to a Recycling Facility. The Service Agreement, Self-Hauling Certificate, or other document shall be available for inspection by the County Manager at the Owner's Non-Residential Property during normal business hours. The Owner also shall mail or deliver these documents to any Generator located on the Owner's Non-Residential Property, within fourteen (14) days, if the Generator requests the documents.

I. Each Generator shall, upon request, provide the County Manager with a copy of a Service Agreement, Self-Hauling Certificate, or other document (e.g., receipt from a Recycling Facility) demonstrating that the Generator's Primary Recyclable Materials are being taken to a Recycling Facility. The Service Agreement, Self-Hauling Certificate, or other document shall be available for inspection by the County Manager at the Generator's Non-Residential Property during the Generator's normal business hours.

J. An Owner may satisfy its obligations under this Ordinance by performing the required activities itself or by using the services of a Contractor or other Person who complies with the requirements of this Ordinance. However, notwithstanding anything else contained herein, the Owner shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance.

K. A Generator may satisfy its obligations under this Ordinance by performing the required activities itself or by using the services of a Contractor or other Person who complies with the requirements of this Ordinance. However, notwithstanding anything else contained herein, each Generator shall be responsible for ensuring and demonstrating its compliance with the requirements of this Ordinance.

**SECTION EIGHT: Exemptions from Recycling Standards.**

A. Notwithstanding any other provision herein, a Generator shall be exempt from the requirements in Section 7 of this Ordinance if the Generator uses no more than one container for the disposal of its Solid Waste, the container's capacity is no greater than ninety-six (96) gallons, and the contents of the container are collected no more than two (2) times per week.

B. Notwithstanding any other provision herein, a Generator shall not be required to recycle a Recyclable Material if the Generator demonstrates to the County Manager that there is no collection service or other cost-effective system available for Recycling such material.

C. Notwithstanding any other provision herein, an Owner shall be exempt from the requirements in Section 7 of this Ordinance if: (1) all of the Generators on the Owner's Non-Residential Property are exempt from or not required to comply with the provisions of Section 7; or (2) Primary Recyclable Materials are not being generated by any activities occurring on the Owner's Non-Residential Property.

**SECTION NINE: Extraordinary and Innovative Recycling.**

A. All Owners and Generators, including those who are exempt from some or all of the requirements in this Ordinance, are encouraged to recycle all of their Recyclable Materials, especially aluminum cans, paper, and cardboard.

B. Owners and Generators are encouraged to work with the County to develop new and innovative methods to recycle other Recyclable Materials, such as Organic Waste.

C. All municipalities in Collier County are encouraged to adopt and implement Recycling programs for the businesses and institutions located in the incorporated areas of the County. If requested, the County Manager shall provide advice and technical assistance with the development of the Recycling programs for these municipalities.

**SECTION TEN: Awards Program for Recycling on Non-Residential Property.**

The County Manager is hereby authorized to establish and implement an awards program to recognize Owners and Generators in the County who implement exceptional or innovative Recycling programs for Non-Residential Property.

**SECTION ELEVEN: Recycling Education and Promotion Program.**

The County Manager is hereby authorized to establish and implement a Recycling education and promotion program for Owners and Generators in the County. The education and promotion program may include, but is not limited to, public workshops, public service announcements, multi-media advertising, and direct mailings concerning the methods and benefits of Recycling on Non-Residential Property.

**SECTION TWELVE: Evaluation of Non-Residential Recycling Program.**

As needed, the County Manager shall provide a report to the Board concerning the County's Recycling program for Non-Residential Property. The report shall address the effectiveness of the County's Recycling program for Non-Residential Property, the general costs and benefits associated with this program, and any changes that should be implemented to

improve the effectiveness of the program.

**SECTION THIRTEEN: Recycling Service Agreements.**

A Contractor shall provide a written Service Agreement to a Customer before the Contractor begins to collect that Customer's Recyclable Materials. The Service Agreement shall describe the services to be provided by the Contractor, the fees to be paid by the Customer, and the other terms of the parties' agreement.

**SECTION FOURTEEN: Standards for Recycling Contractors.**

A. No Person may Collect or transport Recyclable Materials in the County for profit unless such Person has obtained a Certificate of Operation from the County. However, a certified Recovered Materials dealer, as defined in Section 403.7046, Florida Statutes, is not required to obtain a Certificate of Operation before engaging in business in the County.

\*B. A not-for-profit Person is not required to obtain a Certificate of Operation before collecting or transporting Recyclable Materials in the County.

C. Any Person may file an application with the County Manager for a Certificate of Operation. The application shall be submitted on a form prepared by the County Manager. The applicant shall provide the information and documentation that is requested by the County Manager, including but not limited to the following:

1. The name, address and telephone number of the applicant;
2. A description of the vehicles that the applicant will use to Collect Recyclable Materials, including the make, model, and serial number of each vehicle; and
3. Certificates of insurance demonstrating that the applicant has the following minimum insurance coverage: commercial general liability insurance of at least \$1,000,000; business automobile liability insurance of at least \$1,000,000; workers' compensation insurance of at least the statutory limits, unless otherwise provided by state law; and umbrella liability insurance of at least \$2,000,000. The certificates of insurance shall state that the County will receive at least 30 days' written notice before cancellation or reduction of coverage. The certificates of insurance shall indicate that the Board is a named insured in all of the insurance policies required by this Ordinance, with the exception of workers compensation.
4. A written statement certifying that the applicant has reviewed and will comply with all of the requirements in the Certificate of Operation and this Ordinance.

D. If the County Manager determines that the applicant complies with the terms of this Ordinance and all applicable laws, the County Manager shall grant a Certificate of Operation. The County Manager shall deny an application for a Certificate of Operation if the County Manager determines that the applicant does not comply with the terms of this Ordinance or other applicable law. The County Manager may revoke a Certificate of Operation if the County Manager determines, after providing notice and an opportunity for a hearing, that a Contractor has violated the provisions in a Certificate of Operation or any applicable law.

E. The County Manager shall approve a standard form that will be used as the County's Certificate of Operation. The Certificate of Operation shall contain the conditions and limitations that are deemed appropriate by the Board. The Certificate of Operation shall remain in effect for a period of one (1) year, unless the Board approves a longer duration by resolution.

F. A Contractor shall provide each of its Customers with Recyclable Materials Containers that are sufficient to accommodate the quantity and types of Recyclable Materials that will be recycled by the Customer.

G. A Contractor shall conduct all of its activities in accordance with all applicable laws and best management practices. A Contractor's vehicles, equipment and containers shall be kept in a clean and well-maintained condition.

H. A Contractor shall not take a Customer's Recyclable Materials to a landfill or other site for disposal, unless the Contractor has received a variance pursuant to Section 16 of this Ordinance.

I. Unless exempt from this requirement pursuant to Chapter 62-722, Florida Administrative Code, a Contractor shall provide quarterly reports to the County identifying, at a minimum, the types and amounts of Recyclable Material it collected, and each Recycling Facility to which the Recyclable Material was taken. The County Manager may require the Contractor to provide such other information as the County Manager reasonably determines is necessary, provided such request is consistent with the provisions of Chapter 62-722, Florida Administrative Code.

**SECTION FIFTEEN: Self-Hauling.**

A. If an Owner Collects the Recyclable Materials generated on its Non-Residential Property and transports those materials to a Recycling Facility, without using a Contractor, the Owner shall, upon request, prepare a Self-Hauling Certificate for the County Manager.