

## ORDINANCE NO. 2022-

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA AMENDING SECTION 204.06 (DEFINITIONS) AND SECTION 204.13 (TERMS OF CONDITIONS OF FRANCHISES) OF PART 1 (IN GENERAL) OF CHAPTER 204 (SOLID WASTE DISPOSAL) OF THE CODE OF INDIAN RIVER COUNTY, TO REMOVE THE FRANCHISE EXCLUSIVITY OF COMMERCIAL AND DEMOLITION DEBRIS COLLECTION IN ANY SIZE CONTAINER; AND PROVIDING FOR CODIFICATION; SEVERABILITY; CONFLICT OF ORDINANCES; AND EFFECTIVE DATE OF THE ORDINANCE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA THAT:**

### **Section 1. Enactment Authority.**

Article VIII, section 1 of the Florida Constitution and chapter 125, Florida Statutes vest broad home rule powers in counties to enact ordinances, not inconsistent with general or special law, for the purpose of protecting the public health, safety and welfare of the residents of the county. The Indian River County Board of County Commissioners specifically determines that the enactment of this ordinance is necessary to protect the health, safety and welfare of the residents of Indian River County.

### **Section 2. Amendment of Part 1 (In General) of Chapter 204 (Solid Waste Disposal)**

New language indicated by underline, and deleted language indicated by strikethrough.

Section 204.06 (Definitions) and Section 204.13 of Part 1 (In General) of Chapter 204 (Solid Waste Disposal) of the Code of Indian River County, Florida is hereby amended to read as follows:

## **CHAPTER 204. –SOLID WASTE DISPOSAL**

### **PART I. - IN GENERAL**

\* \* \*

#### **Section 201.06. – Definitions.**

For the purposes of this part, the definitions contained in this section 204.06 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; words in the singular number include the plural; the terms "hereof", "hereby", "herein", "hereto", "hereunder" and similar terms refer to this part; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this part. The word "shall" is always mandatory and not merely discretionary. Pursuant to F.S. §

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403.7031, all terms in this section 204.06 shall be construed in a manner that is consistent with the definitions contained in F.S. § 403.703. In the case of any conflict or inconsistency between the definitions in this part and the definitions contained in F.S. § 403.703, the statutory definition shall control.

\* \* \*

*Construction and demolition debris commercial container* means a commercial container that is used to store, transport, and dispose construction and demolition debris less than fifteen (15) cubic yards in any size capacity; ~~provided, however, that no commercial container shall be artificially, mechanically, or otherwise divided so as to form a construction and demolition debris commercial container from a commercial container.~~

\* \* \*

### **Section 204.13. – Terms and conditions of franchises.**

Except as set forth in section 204.13.1, the specific terms of any franchise granted by the district to a franchisee shall be set forth in a written franchise agreement between the franchisee and the district. The terms of the franchise agreement shall be subject to the district board's review and approval. At a minimum, each franchise agreement shall be subject to the following conditions and limitations:

\* \* \*

- (2) Each franchisee shall pay a franchise fee equal to six (6) percent of the gross revenues collected by the franchisee for: residential service in the residential franchise area; residential recyclables service and recyclable toter service in the residential recyclables franchise area; and commercial service; ~~and collection of construction and demolition debris in any size commercial container.~~ The franchise fee shall be accounted for and paid to the district on a monthly basis. Any payments due to the district and not received within the time frame set forth in the franchise agreement shall be subject to the penalties, interest rates, and administrative charges set forth in the franchise agreement.

\* \* \*

**Section 3. Codification**. It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

**Section 4. Severability**. If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall not be affected by such holding and shall remain in full force and effect.

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**Section 5. Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6. Effective Date.** This ordinance shall become effective upon adoption by the Board of County Commissioners and filing with the Department of State.

This ordinance was advertised in the Indian River Press Journal on the \_\_\_ day of July, 2022, for a public hearing to be held on the 12<sup>th</sup> day of July, 2022, at which time it was moved for adoption by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and adopted by the following vote:

Chairman Peter D. O'Bryan	_____
Vice Chairman Joseph H. Earman	_____
Commissioner Susan Adams	_____
Commissioner Joseph E. Flescher	_____
Commissioner Laura Moss	_____

The Chairman thereupon declared the ordinance duly passed and adopted this \_\_\_ day of July, 2022.

**BOARD OF COUNTY COMMISSIONERS  
OF INDIAN RIVER COUNTY, FLORIDA**

By: \_\_\_\_\_  
Peter D. O'Bryan, Chairman

**ATTEST: Jeffrey R. Smith, Clerk  
and Comptroller**

By: \_\_\_\_\_  
Deputy Clerk

EFFECTIVE DATE: This Ordinance was filed with the Department of State on the \_\_\_\_\_ day of July, 2022.