

ORDINANCE C-414

AN ORDINANCE OF THE TOWN OF MEDLEY, FLORIDA; AMENDING CHAPTER 62 "ZONING" BY AMENDING ARTICLE III "DISTRICT REGULATIONS" TO AMEND SECTION 62-88 RELATING TO THE M-1 INDUSTRIAL DISTRICT TO DELETE CERTAIN PROVISIONS RELATING TO SOLID WASTE MANAGEMENT FACILITIES LOCATED WITHIN THE SOLID WASTE MANAGEMENT FACILITIES OVERLAY DISTRICT; CREATING A NEW SECTION 62-91 PROVIDING FOR A SOLID WASTE FACILITIES OVERLAY DISTRICT UPON CERTAIN PROPERTIES LOCATED IN THE M-1 ZONING DISTRICT; PROVIDING FOR PERMITTED AND ACCESSORY USES; PROVIDING FOR DEFINITIONS; PROVIDING FOR A SPECIAL EXCEPTION PROCESS FOR SOLID WASTE FACILITIES WITHIN THE SOLID WASTE FACILITIES OVERLAY DISTRICT; PROVIDING FOR A DEVELOPMENT AGREEMENT AND REQUIREMENTS THEREOF AS PART OF THE SPECIAL EXCEPTION APPROVAL; PROVIDING STANDARDS FOR REVIEW AND APPROVAL OF A SPECIAL EXCEPTION; PROVIDING FOR EXISTING USES; PROVIDING AN EXEMPTION FOR EXISTING SOLID WASTE FACILITIES; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AUTHORIZING TOWN CLERK TO CONFORM TOWN RECORDS; PROVIDING FOR PARTIAL INVALIDITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council finds that it is in the best interest of the citizens of the Town of Medley to amend certain provisions of the Town's zoning regulations to establish areas within the Town of Medley zoned M-1 within which a solid waste facilities overlay district may be adopted and assigned pursuant to a special exception procedure; and

WHEREAS, pursuant to and in accordance with the requirements of Florida Statute 163.3174(4)(c), the Town's Local Planning Agency reviewed the proposed ordinance and has made a recommendation to the Town Council that

the proposed amendment to the Town's land development regulations adopting a Solid Waste Facilities Overlay District within the M-1 zoning district is consistent with the Town's Comprehensive Plan, including its Future Land Use Element; and

WHEREAS, pursuant to law, notice has been given by publication in a paper of general circulation in the Town, notifying the public of this proposed ordinance and of the public hearings;

WHEREAS, two (2) public hearings before the Town Council were held pursuant to the published notice described above; and

WHEREAS, the Town Council, having conducted public hearings in accordance with the notice given, and after allowing all interested parties to express their views and opinions with respect to the proposed ordinance, the Town Council hereby determines that the designation of the Solid Waste Facilities Overlay District is in the public interest and is in accordance with and conformity to the provisions of the Future Land Use Element of the Comprehensive Plan.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MEDLEY, FLORIDA, HEREBY ORDAINS AS FOLLOWS¹:

SECTION 1. Recitals Adopted. Each of the above recitals is hereby confirmed and adopted.

SECTION 2. In order to implement and provide consistency with the Future Land Use Element of the Town's Comprehensive Plan, there is hereby

adopted and established a Solid Waste Facilities Overlay District within the M-1 zoning district as shown on the map attached as **Exhibit 1**, and incorporated herein, where solid waste facilities may be located pursuant to a special exception process as provided in this Ordinance.

SECTION 3. Article III “District Regulations” of Chapter 62 “Zoning” of the Town of Medley Code of Ordinances is hereby amended to read as follows:

ARTICLE III. DISTRICT REGULATIONS.

* * *

Sec. 62-88. M-1. Industrial district

- (a) *Uses permitted.* Except for solid waste facilities and accessory uses related thereto, as authorized and permitted under Section 62-91 of this chapter located within the Solid Waste Facilities Overlay District, all storage of materials and products and all operations of work of every character shall be carried on entirely within enclosing walls or under the roof of a building and/or enclosed by a masonry wall with a minimum height of eight feet when the work is of a nature to be carried on, on the outside of the building, and provided further that no building or land shall be used and no building shall be hereafter erected, constructed, reconstructed or structurally altered in an M-1 district which is designed, arranged, or intended to be used or occupied for any purpose, unless otherwise provided for, excepting for one or more of the following uses:

* * *

SECTION 4. Article III “District Regulations” of Chapter 62 “Zoning” of the Town of Medley Code of Ordinances is hereby amended to create a new Section 62-91 as follows:

ARTICLE III. DISTRICT REGULATIONS.

Sec. 62-91 – Solid Waste Facilities Overlay District.

- (a) *Definitions.* For the purpose of this section the following definitions shall apply:

“Development Agreement” shall mean a development agreement between the owner of property (“Property Owner”) and the Town of Medley in accordance with the Florida Local Government Development Agreement Act, Section 163.3220 et seq., Florida Statutes (the “Act”).

“Solid Waste” means garbage, refuse, litter, yard trash, construction and demolition debris, solid waste produced from commercial establishments or any other discarded materials, but excluding hazardous waste or toxic waste.

“Solid Waste Facility” means a Class I landfill, a Class III landfill, a materials recovery facility, a waste-to-energy facility (including a landfill gas production facility) or a recovered materials processing facility any of which must have received all necessary permits from the State of Florida Department of Environmental Protection and any local permitting authorities, if applicable, but excludes a composting facility.

“Solid Waste Facilities Overlay District” shall mean properties in the Town of Medley within the area depicted on the Solid Waste Facilities Overlay District Map attached as **Exhibit 1**.

- (b) *Uses permitted.* Solid Waste Facilities, and accessory uses related thereto, authorized under this section as a special exception subject to the provisions of subsection (f) hereof and located within the Solid Waste Facilities Overlay District. All storage of materials and products and all operations of work of every character shall be carried on entirely within enclosing walls or under the roof of a building and/or enclosed by a masonry wall with a minimum height of eight feet when the work is of a nature to be carried on on the outside of the building.
- (c) *Accessory uses.* The following accessory uses are permitted in association with the primary use: leachate water pre-treatment plant, landfill gas flare station, stormwater retention access roads, vehicle and equipment storage, tipping station, sorting facility, truck scale and scalehouse, administrative office, equipment maintenance facility, roll-off box container storage area, storage area, and parking facility for collection vehicles.

- (d) *Development Agreement.* Class I and Class III landfills located within the Solid Waste Facilities Overlay District shall be subject to the terms and conditions of a development agreement between the Property Owner and the Town.
- (e) *Requirements of Development Agreement.* Prior to the effective date of the approval by the Town Council of a special exception to permit a Class I or Class III landfill within the Solid Waste Facilities Overlay District, the Property Owner shall execute a Development Agreement with the Town in accordance with the following:
 - (i) The Development Agreement shall comply with all applicable substantive and procedural requirements of the Act.
 - (ii) In addition to the requirements of the Act, the Development Agreement shall contain provisions governing and applicable to the use of the property including, but not limited to, the following:
 - (a) a description of the activities and types of operations to be conducted on the property, and any conditions to be placed thereon, which may include, but not be limited to, monitoring, inspection, and testing of the operations of the facility or facilities as well as requirements for records to be maintained by the Property Owner or operator of the facility.
 - (b) a fee or fees to be paid to the Town as may be agreed between the Town and the Property Owner. The fee may be structured as a one time or periodic recurring fee as determined between the parties.
 - (c) required contributions or construction of improvements to support the approved use.
 - (d) any additional terms and conditions necessary to ensure that the property will function and be adequately maintained to protect the Town and surrounding areas from the impacts of the use, including, but not limited to, access, internal and external traffic circulation and control, drainage and roadway improvements, both within and without the property, landscaping and aesthetic improvements.

- (f) *Special exception approval.* Solid Waste Facilities shall only be permitted pursuant to a special exception approved by the Town Council after notice and a public hearing in accordance with, and subject to the requirements of, Sections 62-105, 62-106, 62-107, and 62-109 of this Article III, as may be hereafter amended or supplemented. As provided in this section and subject to all other code requirements relating to the processing of special exceptions, the Town Council may grant special exceptions to: (1) permit any of the uses described in this section; and (2) subject to the provisions of subsection (g) hereof, authorize any deviation from the terms of the Code of Ordinances, but limited to matters such as setback lines, frontage requirements, subdivision regulations, height limitations, lot size restrictions, yard requirements, building requirements and other requirements which have no relation to the use of the property that is the subject of the application. Special exceptions may be granted upon a showing by the applicant that the special exception would not adversely affect the public health, safety, welfare or interest.
- (g) *Buffer requirement.* No use of land or property for the purpose of storage or stockpiling of any materials, unless screened by a masonry wall or wall composed of other similar material, which wall shall be a minimum height of eight (8) feet and a maximum height of ten (10) feet, shall be permitted within one hundred (100) feet of any public right-of-way ("Buffer Area") adjacent to property upon which a Solid Waste Facility is approved and constructed pursuant to this Section 62-91; provided, however, for property comprising one (1) acre or less, a Buffer Area of fifty (50) feet shall be permitted. Class I landfills and accessory uses thereto which are the subject of a permit issued by the Florida Department of Environmental Protection shall comply with the setback requirements of Rule 62-701.300, F.A.C., and are not subject to the buffer requirements of this subsection (g).
- (h) *Standards for review.* (i) The Town Council shall provide findings of fact that a special exception complies with the following standards and the criteria applicable to each special exception requested:
- (1) That the use is permitted as a special exception use as set forth in the use regulations of the Solid Waste Facilities Overlay District.
 - (2) That the use will not cause a detrimental impact to the value of existing contiguous uses, uses in the general area and to the underlying zoning district and the Solid Waste Facilities Overlay District.

- (3) That the use will be compatible with the existing uses on contiguous property, with uses in the general area and underlying zoning district where the use is to be located and compatible with the general character of the area, considering population density, design, scale and orientation of structures in the area, property values and existing similar uses or zoning.
- (4) That adequate landscaping and screening are provided to buffer adjacent uses from potential incompatibilities.
- (5) That adequate parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- (6) That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.
- (7) That the use will not have a detrimental effect on vehicular or pedestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community.
- (8) That the use will not utilize turning movements in relation to its access to public roads or intersections, or its location in relation to other structures or proposed structures on or near the site that would be hazardous or a nuisance.
- (9) That the use will not have a detrimental effect on the future development of contiguous properties or the general area, according to the comprehensive plan.
- (10) That the use will not result in the creation of incompatible noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses, uses located on contiguous properties, uses in the general area and the zoning in the vicinity due to its nature, duration, direction or character.
- (11) That the use will not overburden existing public services and facilities.
- (12) That the proposed special exception is consistent with and furthers the goals, policies and objectives of the comprehensive plan

and furthers the purposes of these regulations and other Town ordinances and actions designed to implement the plan.

(13) That the proposed special exception does not conflict with the needs and character of the Town.

(14) That the parcel proposed for development is adequate in size and shape to accommodate all development features.

(15) That the nature of the proposed development is not detrimental to the health, safety and general welfare of the community.

(ii) The Town Council may deny, approve, or approve the application with conditions. In issuing its decision to grant a special exception, the Town may place more restrictive requirements and conditions on applications than are provided in this section, when the conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located.

(iii) If the applicant wishes to amend a special exception use approval, the proposed amendment shall be processed and reviewed in accordance with the procedures set forth in this section for new special exception uses.

- (i) *Existing Uses.* Any use of land for Solid Waste Facilities and Accessory Uses, as those terms are defined herein, existing at the time of the passage of this Ordinance may be continued as long as the land is contained within the boundaries of the Solid Waste Facilities Overlay District, as defined herein, and all requirements of the Town of Medley Code of Ordinances are otherwise complied with. Such use of land for Solid Waste Facilities and Accessory Uses may be enlarged or increased, or extended to occupy a greater area of land within the land occupied for the existing use, provided such enlargement, increase, or extension otherwise complies with all requirements of the Town of Medley Code of Ordinances.

For existing uses as described in this subsection (i), double stacked containers up to a height of seventeen (17) feet painted and secured in a manner acceptable to the Town may be continued in lieu of the installation of a wall as required by subsection (g) of this Section.

Nothing herein shall be deemed to require the construction of a perimeter wall or the establishment of the buffer required under subsections (b) and (g) above for that certain property located at 9595

N.W. 89th Avenue, Medley, Florida, and bearing Folio Numbers 22-3004-001-0073 and 22-3004-001-0078; provided, however, the existing six (6) foot fence located on the property must continue to be maintained at the existing height and location and must contain screening material as approved by Town staff. Further, this foregoing exemption shall apply for so long as the principal use or activity within the Buffer Area is limited to the existing storage of bagged mulch and the existing mulching operation on the property.

- (j) *Existing Solid Waste Facilities.* Solid Waste Facilities and Accessory Uses within the Solid Waste Facilities Overlay District authorized and existing pursuant to a valid and effective Development Agreement executed between a Property Owner and the Town prior to the effective date of this ordinance are exempt from the provisions of this ordinance. Any modification, alteration, or expansion of such Solid Waste Facilities and Accessory Uses shall be subject to Town approval only in an amended or new Development Agreement and shall not be subject to the provisions of this Ordinance.

SECTION 5. All Ordinances of the Town of Medley, Florida, in conflict or inconsistent herewith are hereby repealed and shall be of no force and effect to the extent of such conflict or inconsistency.

SECTION 6. All Ordinances of the Town of Medley, Florida, are hereby amended to the extent of the change of zoning provided for in this Ordinance.

SECTION 7. The requirements of this Ordinance shall be in addition to other requirements of the Town's adopted Zoning Code, and in the case of conflict, the provisions of this Ordinance shall control.

SECTION 8. The Town Clerk of the Town of Medley, Florida is hereby authorized to note the Solid Waste Facilities Overlay District on any Town zoning maps or other records of the Town of Medley in conformity with the purpose and intent of this Ordinance.

SECTION 9. It is the intent of the Town Council of the Town of Medley that the provisions of this Ordinance shall become and be made a part of the code of Ordinances of the Town of Medley, Florida.

SECTION 10. If any section, sub-section, sentence, clause or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such party invalidity.

SECTION 11. This Ordinance shall become effective ten (10) days after the date of its adoption.

PASSED AND ADOPTED this _____ day of _____, 2016.

ROBERTO MARTELL, MAYOR

ATTEST

HERLINA TABOADA, TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

TOWN ATTORNEY

SUMMARY OF VOTE - FIRST READING

The motion to PASS the foregoing Ordinance on FIRST READING and seconded by _____ and on roll call, the following vote was had:

Mayor Roberto Martell: _____

Vice-Mayor Jack Morrow: _____

Councilperson Edgar Ayala: _____

Councilperson Griselia Digiacomo: _____

Councilperson Susana Guasch: _____

SUMMARY OF VOTE - SECOND READING

The motion to PASS AND ADOPT the foregoing Ordinance on SECOND was made by _____ and seconded by _____ and on roll call, the following vote was had:

Mayor Roberto Martell: _____

Vice-Mayor Jack Morrow: _____

Councilperson Edgar Ayala: _____

Councilperson Griselia Digiacomo: _____

Councilperson Susana Guasch: _____