

## ORDINANCE 2018-19

AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA AMENDING THE BUNNELL CODE OF ORDINANCES CHAPTER 50 SOLID WASTE; UPDATING REGULATIONS FOR FACILITY OPERATING PERMITS; PROVIDING FOR VEHICLE TRANSFER AND FRANCHISE HAULER REGULATIONS; UPDATING ROLL OFF AND HOOK TRUCK REGULATIONS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapters 166 and 163, Florida Statutes, include authority to enact regulations to protect the health, safety and welfare, and interests of the citizens of the City; and

WHEREAS, the Code of Ordinances, Chapter 50 Solid Waste, contains regulations regarding solid waste, C&D, recycling, sludge and yard waste; and automotive, truck/cars, dismantling facilities and junk vehicles/motorcycles/truck/automobiles for the use of reclamation for parts; and

WHEREAS, said regulations are in need of revision; and

WHEREAS, the City Commission of the City of Bunnell finds it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

WHEREAS, the City of Bunnell has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, \*\*\* shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BUNNELL, FLAGLER COUNTY, FLORIDA THAT:

### Section 1.

The Bunnell Code of Ordinances Chapter 50 is hereby amended as follows:

#### **Sec. 50-2. - Definitions.**

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Insurance Requirements: A contract (policy) in which City receives financial protection or reimbursement against losses from an insurance company.

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#### **Sec. 50-3. - Facility Operating permit and application process.**

Types of facilities, permit and application process. The following are the types of facilities required to

comply with this chapter:

C&D processing facility;

C&D transfer stations;

MRF;

Solid waste (MSW) facility;

Rock and clean fill dirt facilities and borrow pits;

Commingle and paper recyclers;

Scrap metal recyclers; Automotive, motorcycle, truck recyclers/dismantlers and reclamation facilities.

Nonfranchise haulers;

Franchised haulers;

Sludge facilities.

*Application and permit fees.* ~~The facility operating permit application fee and annual renewal operating permit fee for the above identified facilities following will be established by the city commission: C&D processing or transfer stations, MRF, MSW, rock and clean fill dirt, any recycling operation and facilities, sludge facilities shall be established by the City Commission by resolution. The annual business tax receipt fee is contained in the city business tax receipt ordinance.~~

All other facilities listed as hazardous waste or medical waste transfer station permits will have an application process and annual permit fee that is established by the City Commission by resolution.

*Application process.* An applicant must submit the following to the community development department:

- (a) a completed City facility operating permit application;
- (b) An ~~application~~ approved site plan meeting the requirements of chapter 22 of the city Land Development Code; ;
- (c) an application and all required documents for a city business tax receipt; ;
- (d) copy of FDEP permit for the requested activity; ;
- (e) documentation that any conditional zoning approvals that may be needed will be met or have been met; and
- (f) required application fee.

Before the facility operating permit can be issued, all of the required application materials must be submitted and approved and all permits for the development of the property must be approved and closed out.

#### **Sec. 50-5. - Franchise fees and agreements.**

The city reserves the right to negotiate franchise fees for any solid waste, C&D, sludge or recycling activity in the city for services not provided by the city solid waste department. These franchise fees shall be established by the city commission by resolution. There are no fees for sludge hauling from city-owned facilities.

The application for a franchise shall be filed through the Solid Waste Department. The application shall include all documents necessary to process the franchise agreement, including but not limited to a current City business tax receipt, insurance certificates, documentation that all AVTSFs or FHTFs have been paid, and the application for franchise.

**Sec. 50-6. - Annual vehicle transfer station fee (AVTSF) and Franchised Hauler Truck fee (FHTF).**

AVTSF is charged for each vehicle that delivers solid waste, C&D, sludge, scrap metal or any other recycling material to any solid waste, C&D, sludge or recycling facility operating in the city limits.

~~AVTSF will be collected for each vehicle delivering to a city located facility delivery by the permitted operator of the solid waste, C&D, sludge or recycling business. The operator of the facility will record the vehicle owner's name, address, phone number, type of vehicle, and license plate number. The City will issue an AVTSF certificate to the facility operator upon payment of required fee. A small numbered sticker that is provided by the city to the permitted business operator will be applied to the vehicle on the lower left windshield. This sticker is good for one calendar year and shall not be prorated. Should a sticker be lost or stolen, a replacement sticker shall be provided by the city at the vehicle owner's expense. The fee shall be established by the City Commission by resolution is \$5.00 annually for all vehicles or otherwise set by the city commission from time to time.~~

A franchised hauler truck fee (FHTF) is charged to each approved and licensed franchised trucking company and/or hauler that picks up solid waste, C&D, sludge, scrap metal or any other solid waste or recycling material not picked up by the City Solid Waste Department. The hauler will provide vehicle information including but not limited to the type of vehicle, the make and model, VIN and license plate on the application form. Upon review and approval of the FHTF application, the City will issue a FHTF certificate to the hauler. The fee shall be established by the City Commission by resolution.

~~At the end of each calendar year the permitted operator of the solid waste, C&D, sludge or recycling business will forward the AVTSF collected to the city community development department.~~

All AVTSFs and FHTFs shall be renewed annually by the start of the City fiscal year.

**Sec. 50-7. - Compliance and audit; penalties.**

*Compliance requirements for solid waste, C&D, sludge, salvage, dismantler, ~~or~~ recycling, MRF and landfill businesses.* To protect the city's interest and for public safety, the city adopts the Florida Department of Environmental Protection's compliance inspection, and includes, but is not limited to the following:

- Tonnage and volume compliance;
- Record keeping of sight safety meetings and safety program;
- Maintenance records and record keeping;
- Fire safety as per City of Bunnell Fire Marshal;
- Site aesthetics and cleanliness;
- Dust and vector control;

- License and permit compliance.

The city shall require solid waste, C&D, sludge, salvage, dismantler, or recycling, MRF, and landfill businesses to obtain the following:

- (1) Liability insurance naming the City of Bunnell as an additional insured.
- (2) An annual performance bond, or posting the cash equivalent thereof.
- (3) Insurance which includes third-party pollution liability.

The applicant shall provide the city with valid certificates of insurance prior to any approval or acceptance of applicant's permit request.

The insurance and bond amounts shall be established by the city commission.

*Pollution and Remediation Legal Liability (Hazardous Materials).* The term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or Federal law or by the rules or regulations of Florida or any Federal Agency. The Applicant shall procure and maintain the following insurance coverage:

Contractors Pollution Liability Coverage – For sudden and gradual occurrences that result in environmental impairment and in an amount not less than \$1,000,000 per claim arising out of operations, errors and/or omissions of the Applicant. Coverage must include third party liability and remediation costs. (Facilities only)

Hazardous Waste Transportation Coverage (hazardous waste hauler only)

Automobile Liability insurance with Endorsement MCS90 for liability arising out of the transportation of hazardous materials in an amount not less than \$1,000,000 per claim limit and provide a valid EPA identification number (if applicable).

The City of Bunnell, a political subdivision of the State of Florida, its officials, employees, and volunteers are to be covered as an additional insured on the above policies.

*Audit.* All permitted MSW, MRF, sludge and C&D operations may be audited at a minimum of twice a year and monthly if a violation is found.

*Penalty.* All city expenses relating to any audit are to be paid by the permittee. All fine amounts for violations shall be established by the City Commission by resolution. In addition, the City may require the permittee to increase insurance coverage or obtain insurance coverage that may not have been required at the time of application.

#### **Sec. 50-11. - Roll-off service and hook lift truck regulations.**

Roll-off service for construction and demolition debris shall be provided by a hauler holding a current city business tax receipt and an approved franchise agreement with the city for construction debris, land clearing, rock and dirt roll off type service 10 yard – 50-yard size dumpsters. All services that require grapple, polybag hook service or hook dumpster services must apply and be approved as a franchise before providing services.

Roll-off contractors or haulers shall pick up construction debris only, not solid waste or recycling of

any type. Any violation(s) of this may cause revocation of the franchise agreement, facility operating permit and/or business tax receipt license.

Nonpermitted companies and individuals are subject to vehicle(s) seizure, vehicle(s) impound, fines and impound fees set forth by resolution.

Roll off or Hook lift type truck franchise fees shall be established by the City Commission by resolution.

~~All roll-off fees and fines shall be established and approved by the city commission.~~

### **Section 2. Implementing Administrative Actions.**

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

### **Section 3. Codification.**

The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Bunnell Code of Ordinance* and the Sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 2, 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

### **Section 4. Conflicts.**

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

### **Section 5. Severability.**

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

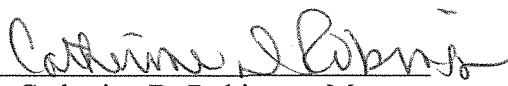
### **Section 6. Effective Date.**

This Ordinance shall take effect immediately upon enactment.

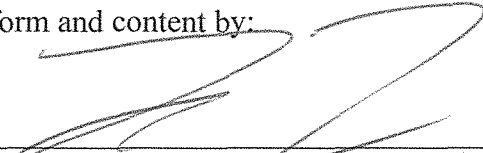
First Reading: approved on this 24<sup>th</sup> day of September 2018.

Second Reading: adopted on this 8<sup>th</sup> day of October 2018.

**CITY COMMISSION, City of Bunnell, Florida.**

By:   
Catherine D. Robinson, Mayor

Approved for form and content by:

  
\_\_\_\_\_  
Wade Vose, City Attorney

Attest:

  
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Kristen Bates, City Clerk

