

ORDINANCE NO. 3765

AN ORDINANCE
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE CITY CODE, SUB-PART A, ADMINISTRATIVE CODE, CHAPTER 70, SOLID WASTE, ARTICLE I. IN GENERAL, SECTION 70-1 DEFINITIONS, ARTICLE II. COLLECTION, SECTION 70-32 RESPONSIBILITIES OF PRIVATE HAULERS, SUBSECTION (b) COMBINING MATERIALS; SECTION 70-46 DUTY OF PROPERTY OWNER; PRECOLLECTION PRACTICES, SUBSECTIONS (a) PREPARATION OF SOLID WASTE AND (b) CONTAINERS; SECTION 70-49 COLLECTION, SUBSECTION (i); ARTICLE III. RATES, CHARGES AND BILLING PROCEDURE, SECTION 70-82 RATES ESTABLISHED, SUBSECTION (h) AND CREATING SUBSECTIONS (n) AND (o); AMENDING SECTION 70-87 PROCEDURES FOR INADEQUATE SERVICES, SUBSECTION (a); ARTICLE IV. MANDATORY RECYCLING OF RESIDENTIAL, COMMERCIAL, NON-PROFIT ENTITY, SPECIAL EVENTS, MULTI-FAMILY SOLID WASTE, CONSTRUCTION AND DEMOLITION DEBRIS, SECTION 70-116 TEMPORARY EXEMPTIONS FOR RECYCLABLE MATERIALS, SUBSECTION (a); PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, that:

SECTION 1. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article I. In General; Section 70-1 Definitions by amending the definitions for Approved solid waste container; Materials recycling facility; Recyclable materials, recyclables or recycling, and Recycling containers to read as follows:

Sec. 70-1. Definitions.

Approved solid waste container means:

- (1) Containers furnished by the city; for all city provided solid waste services;
- (2) Solid waste containers designed to be mechanically emptied into a packer-type truck

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or hoisted onto a roll-off ~~or tilt trailer~~. These containers are to be furnished by the city ranging from two cubic yard to ~~55~~ 40 cubic yard capacity. Hereafter this type collection shall be referred to as "containerized service"; or

- (3) Recycling materials shall be stored in an ~~18-gallon bin~~, 65 or ~~90~~ 96 gallon container or any approved container furnished by the city.

Materials ~~Recycling~~ Recovery Facility (MRF) means any facilities operated or managed by, for or on behalf of the city for the purpose of receiving, sorting, processing, storing, and/or preparing recyclable materials for sale, as specifically designated by the contract administrator, in writing. Such a facility is not a solid waste management facility if it meets the conditions of Florida Statutes, s. 403.7045(1)(e).

Recyclable materials, recyclables or recycling means any materials to be collected by the city or private hauler for the purpose of recycling at the Lee County Materials Recovery Facility, private state certified recover dealers or construction debris recycling facility. Recyclable materials include newspaper, including inserts, glass that is clear, brown or green, aluminum beverage cans, clean aluminum pans and foil; numbers 1 through 7 plastic bottles, corrugated cardboard four feet by four feet maximum size per piece, brown paper bags, fiberboard, tin and ferrous cans, household dry-cell batteries, no wet-cell batteries are permitted, and jugs; bi-metal cans and newspapers,

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telephone books, magazines, and other solid waste materials added and approved by the city when such materials have been either diverted from the remaining solid waste stream or removed prior to their entry into the remaining solid waste stream.

Recycling containers means any container authorized and approved by the public works director or designee for the collection of recyclable materials, including, but not limited to bins, 90 96 gallon containers, dumpsters, and

SECTION 2. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article II. Collection; Section 70-32 Responsibilities of private haulers, Sub-section (b) Combining materials is hereby amended to read as follows:

Sec. 70-32. Responsibilities of private haulers.

(b) *Combining materials.* Haulers shall not combine program recyclables with yard waste, land clearing debris, solid waste, construction and demolition debris, or additional recyclables. ~~Paper program recyclables shall not be combined with container program recyclables.~~ If the hauler was contracted to provide collection of source-separated recyclables construction and demolition debris, then the hauler shall not combine nonconforming materials with the separated recyclables construction and demolition debris. Haulers shall visually inspect each user's recycling container. If the hauler finds recyclable materials have been combined with nonconforming materials, the entire recycling container shall be tagged and

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shall not be collected until the recycling container is free of nonconforming material.

SECTION 3. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article II. Collection; Section 70-46 Duty of property owner; precollection practices, Subsections (a) Preparation of solid waste and (b) Containers are hereby amended to read as follows:

Sec. 70-46. Duty of property owner; precollection practices.

- (a) Preparation of solid waste.
 - (1) Garbage. All garbage shall be drained of liquid and shall be wrapped or bagged in paper or plastic before being placed in any container for collection.
 - (2) Trash. All trash shall be drained of liquid before being deposited for collection.
 - (3) Recyclables. Recyclables shall be prepared for collection in accordance with existing policies of the city as part of the recycling education program.
 - (5) Crates and cardboard boxes. Crates and cardboard boxes shall be collapsed prior to being placed for collection.
 - (4) Scrap metal and appliances. Scrap metal and appliances shall be placed at the curb for recycling collection separate from other trash. Freezers, refrigerators, clothes washers, clothes dryers, dishwashers or similar airtight units shall have the doors removed before

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being placed for collection. All stand-up items shall be laid flat and doors removed. Scrap metal such as poles, pipes and antennas shall be cut or bent into pieces not longer than six feet.

(6) *Dangerous material.* All dangerous material collected manually such as broken glass, light bulbs, and razor blades, shall be deposited in a disposable container and placed at curbside for collection. Items that cannot be placed at curbside are paned glass, large pieces of solid glass, such as shower doors, glass tables, and sliding glass doors.

(7) None of the above may be placed at curbside prior to 24 hours or 12:00 p.m. in advance of a scheduled pick-up day.

(b) *Containers.*

~~(1) *Duty to provide and maintain in sanitary condition.* Except in the case of containers provided by the city, all containers shall be provided by the owner, tenant, or occupant of the premises. Containers shall be maintained in good condition and shall be subject to inspection and approval of conditions by city code enforcement inspectors and others having jurisdiction. Routine maintenance of city approved containers in a sanitary manner is the responsibility of the user. Any container that does not conform to the~~

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~~provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof, shall be promptly replaced by the customer upon written notice by the city. The public works director or designee shall have the authority to discontinue collection service for failure to comply. In the event of damage to a container provided by the city caused by a user of the container, the cost of repair or replacement shall be charged to the customer's account.~~

(21) Commercial trash bins. No commercial trash bins or trash rooms shall be used without written permission of the public work director or designee. No existing bin shall continue to be used, and no new bin shall be permitted for use, unless it is completely enclosed and water tight. Open-top construction roll-offs are exempt.

(32) Commercial containers. Containers shall be of such size and shape as to be capable of being lifted and emptied into city collection vehicles. Commercial front end containers provided by the owner and used in conjunction with compactors shall first be approved by the public works director or designee, such approval to relate to the ability of the city to service such equipment.

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SECTION 4. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article II. Collection; Section 70-49 Collection, Subsection (i) is hereby amended to read as follows:

Sec. 70-49. Collection.

(i) In the event that a person's solid waste or recycling bin/container is full, it shall be the duty of such person to properly contain such other waste generated at residential or commercial locations, other than bulk and white goods, until the time it can be placed in a city approved container without risk of overflow if conditions exist as follows:

- (1) Creates a fire hazard dangerous to persons or property;
- (2) Becomes unreasonably offensive or dangerous to the public peace, health or safety;
- (3) Promotes the propagation, harborage or attraction of rodents, vermin, wild animals, stray animals, flies or other germ carrying insects. In the event of rodents, vermin, wild animals, flies or other germ carrying insects, it is the responsibility of the owner, tenant or occupant to eradicate the infestation.; or
- (q) Container placement and removal.
- (3) *Handicapped and elderly.* Any person who has been certified by a physician as being unable to place a solid waste container at the curb, and there is no other persons residing at the residence, shall be entitled to have the

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solid waste collected at the side or rear of the building at no extra charge. Certification letters shall be resubmitted every two years.

SECTION 5. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article III. Rates, Charges and Billing Procedure; Section 70-82 Rates established, Subsection (h) is hereby amended and Subsections (n) and (o) are created to read as follows:

Sec. 70-82. Rates established.

(h) Noncontainerized commercial solid waste from a ~~90~~ 96 gallon container shall be charged a base rate of \$24.12 per month. Solid waste exceeding the base rate of four cubic yards shall be at a cost of \$11.13 per cubic yard (noncompacted measure).

(n) Delivery service charge for commercial containers. Customers utilizing a commercial container may request a change in container size two (2) times per calendar year at no additional delivery charge. Each customer requesting a change in container size in excess of two (2) times per calendar year shall be assessed a delivery service charge of Twenty-Six Dollars and Fifty Cents (\$26.50) per request.

(o) Delivery service charge for delinquent commercial accounts. If a customer's commercial account becomes delinquent and the customer's commercial container is removed, the customer will be assessed a delivery charge of Twenty-Six Dollars and Fifty Cents (\$26.50) for delivery of a commercial container.

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SECTION 6. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article III. Rates, Charges and Billing Procedure; Section 70-87 Procedures for inadequate services, Subsection (a) is hereby amended to read as follows:

Sec. 70-87. Procedures for inadequate services.

(a) Permitting or allowing collection services to be inadequate such that the existence of solid waste or other objectionable, loose, unsecured, unsightly or unsanitary material upon any property within the city to the extent and in the manner that such property is or may reasonably become infested or inhabited by rodents, vermin or wild animals, or may furnish a breeding place for flies or other germ carrying insects, ~~mosquitoes~~, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or adversely affects and impairs the economic welfare of adjacent property, is hereby prohibited and declared to be a public nuisance and unlawful. In the event of rodents, vermin, wild animals, flies or other germ carrying insects, it is the responsibility of the owner, tenant or occupant to eradicate the infestation. Permitting or allowing such a condition to exist shall be subject to the city supplying the necessary service.

SECTION 7. The City Code of the City of Fort Myers, Florida, Sub-Part A Administrative Code, Chapter 70, Solid Waste, Article IV. Mandatory Recycling of Residential, Commercial, Non-Profit Entity, Special Events, Multi-Family Solid Waste, Construction and Demolition Debris, Section 70-116 Temporary exemptions for recyclable materials Subsection (a) is hereby amended to read as follows:

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Sec. 70-116. Temporary exemptions for recyclable materials.

(a) Businesses having one ~~90~~ 96 gallon container services are exempt from the requirements of this article.

SECTION 7. SEVERABILITY. If for any reason, any section, subsection, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

SECTION 8. This ordinance shall become effective upon adoption.

PASSED IN PUBLIC SESSION of the City Council of the City of Fort Myers, Florida, this 7th day of December, A.D., 2015.

<u>Aye</u>	<u>/s/ Teresa Watkins Brown</u>
<u>Aye</u>	<u>/s/ Johnny W. Streets, Jr.</u>
<u>Aye</u>	<u>/s/ Terolyn P. Watson</u>
<u>Aye</u>	<u>/s/ Michael Flanders</u>
<u>Aye</u>	<u>/s/ Forrest Banks</u>
<u>Aye</u>	<u>/s/ Gaile Anthony</u>
	Council Members

APPROVED this 7th day of December, A.D., 2015, at 6:15 o'clock p.m.

<u>Aye</u>	<u>/s/ Randall P. Henderson, Jr.</u>
	Mayor

FILED in the Office of the City Clerk this 7th day of December, A.D., 2015.

<u>/s/ Marie Adams, MMC</u>
City Clerk