

TOWN OF FORT MYERS BEACH
ORDINANCE NO. 96-11

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH
FLORIDA, TO BE KNOWN AS THE TOWN OF FORT MYERS
BEACH TAKING OF RECYCLABLE MATERIALS ORDINANCE
PROVIDING AUTHORITY; TITLE AND CITATION;
DEFINITIONS; SCAVENGING PROHIBITED; PENALTIES;
SEVERABILITY; REPEALING CLAUSE AND EFFECTIVE
DATE

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA as follows:

SECTION ONE: Authority

This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION TWO: Title and Citation

This ordinance shall be known and cited as the "Town of Fort Myers Beach Taking of Recyclable Materials Ordinance"

SECTION THREE: Definitions

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The words "shall" and "will" are mandatory and not discretionary.

A. Commercial Collection Service: shall mean recyclable collection service to include but not be limited to: commercial property which includes all hotels, motels, parks containing mobile homes, trailers, manufactured housing and recreational vehicles, commercial (wholesale/retail), manufacturing, and industrial and institutional enterprises of all types licensed to do business in Lee County. Commercial properties shall be all properties other than those defined as residential, including condominiums consisting of more than four (4) units.

B Recyclable Materials: shall mean a material which is capable of being recycled by the Lee County recycling program and which would otherwise be processed or disposed of as solid waste.

C. Recycling: shall mean any process by which solid waste or materials which would otherwise become solid waster are collected, separated, or processed and re-used or returned to use in the form

of raw materials or products.

D. Recycling Container: shall mean the Lee County receptacle used for storing recyclable materials for collection, which may be, but not necessarily be limited to: bags, bins or cans of any size.

C. Residential Collection Service: shall mean service to residential dwelling units within the Town which shall include the following property types, together with the use codes employed by the office of the Lee County Property Appraiser:

<u>Property Type</u>	<u>User Code</u>
Single Family	01
Mobile Home	02
Miscellaneous Residential (Migrant Camps, Boarding homes, etc.)	07
Multi-family - 4 units or less	08
Condominiums - 4 units or less	04

SECTION FOUR: Scavenging Prohibited

A. It shall be unlawful for any unauthorized person to remove any recyclable materials from a Lee County recycling container at a collection location or at curbside. Such removal, upon conviction shall constitute petty theft, and shall be subject to the penalties for such offense as further outlined herein.

B. It shall be unlawful for any person not specifically authorized to do so by the Department of Solid Waste Management or the property or commercial enterprise owner to open, remove, untie, or to interfere with the orderly and legitimate collection of recycling material or recycling container, or to disturb or scatter recyclable materials stored in containers placed for collection at a curbside, drop-off or collection location.

SECTION FIVE: Penalties

A. Violation of the provisions of this Ordinance shall be punishable as provided for by Florida Statutes, in particular, the provisions of Chapter 812 and 775.

B. Unauthorized removal of recyclable materials or recycling containers from the curbside with the use of a motorized vehicle shall be punished, upon conviction, by imprisonment in the County jail for a term not to exceed Sixty (60) days and a fine not to exceed Five Hundred Dollars (\$500.00).

C. Unauthorized removal of recyclable materials or recycling containers from the curbside without the use of a motorized vehicle shall, upon conviction, be punished by a fine not to exceed One Hundred Dollars (\$100.00).

D. The County may enforce the provisions of this Ordinance in accordance with Chapter 162, Florida Statutes, and Lee County Ordinance No. 90-01, as it relates to the Code Enforcement Citation Procedure.

SECTION SIX: Severability

If any one of the provisions of this ordinance should be held contrary to any express provision of law of contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION SEVEN: Repealing Clause

All ordinances or parts thereof in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION EIGHT: Effective Date

This ordinance shall become effective September 30, 1996.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member MURPHY and seconded by Council

Member Reynolds and, upon being put to a vote, the result was as follows:

Anita T. Cereceda	<u>aye</u>
Ted FitzSimons	<u>aye</u>
William (Rusty) Isler	<u>aye</u>
Garr Reynolds	<u>aye</u>
Ray Murphy	<u>aye</u>

DULY PASSED AND ENACTED this 29th day of July, 1996.

ATTEST:

TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

By: Anita T. Cereceda
Anita T. Cereceda, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney