

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date:	June 18, 2019	<input type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Workshop	<input checked="" type="checkbox"/> Public Hearing
Department:	Administration		
Submitted By:	Administration		
Submitted For:	Solid Waste Authority		

I. EXECUTIVE BRIEF


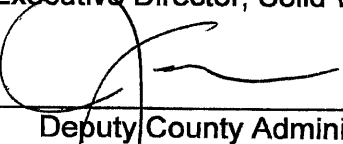
Motion and Title: Staff recommends motion to adopt: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, repealing and replacing Palm Beach County Code, Section 25-1, and Palm Beach County Ordinance No. 96-9 pertaining to garbage collection; providing for a title; providing for definitions; providing for requirements, prohibitions and exemptions; providing for enforcement, penalties and citation procedures; providing for inclusion in the Code Enforcement Citation Ordinance of Palm Beach County, Florida; providing for repeal of laws in conflict; providing for severability; providing for captions; providing for a savings clause; providing for inclusion in the Code Of Laws And Ordinances; and providing for an effective date.

Summary: The repeal and replacement of Palm Beach County Code, Section 25-1, and Ordinance No. 96-9 is necessary due to the increase in population and development in Palm Beach County that has resulted in the need for new and improved methods of collection through automation and a need for better efficiency in collection while maintaining a high level of service throughout the County. New, larger garbage carts will be provided to the public that will also assist the haulers in maintaining an orderly, timely and consistent schedule for the collection of garbage and yard waste. The new ordinance will also limit the time that garbage and yard waste will remain at the collection point and in public view. On June 4, 2019, the Board of County Commissioners held a preliminary reading of this Ordinance and authorized advertising for public hearing. Countywide (HJF)

Background and Policy Issues: This approach is consistent with the Solid Waste Authority of Palm Beach County Governing Board's direction.

Attachments:

1. Ordinance with Exhibit "1" (2 originals)
2. Summary of Changes

Recommended by:		6-1-2019
	Executive Director, Solid Waste Authority	Date
Approved By:		6/4/19
	Deputy County Administrator	Date

II. FISCAL IMPACT

ANALYSIS A. Five Year Summary of Fiscal

Impact:

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income(County)					
In-Kind Match(County					
NET FISCAL IMPACT					
#ADDITIONAL FTE					
POSITIONS (CUMULATIVE					

Is Item Included in Current Budget? Yes No

Does this item include the use of federal funds? Yes No

Budget Account No:

Fund ____ Agency ____ Organization ____ Object

B. Recommended Sources of Funds/Summary of Fiscal Impact:

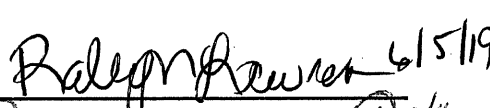
Fiscal impacts to County (non-SWA) resources are incidental and can be absorbed in current budget.


C. Departmental Fiscal Review:

III. REVIEW COMMENTS:

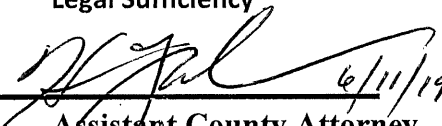
A. OFMB Fiscal and/or Contract Dev. and Control Comments:

AP
6/4


OFMB
6/5/19
6/4


Contract Dev. & Control
6/10/19
6/10/19

B. Legal Sufficiency


6/11/19

Assistant County Attorney

C. Other Department Review

Department Director

ORDINANCE NO. 20 ____ - ____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING AND REPLACING PALM BEACH COUNTY CODE, SECTION 25-1, AND PALM BEACH COUNTY ORDINANCE NO. 96-9 PERTAINING TO GARBAGE COLLECTION; PROVIDING FOR A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR REQUIREMENTS, PROHIBITIONS AND EXEMPTIONS; PROVIDING FOR ENFORCEMENT, PENALTIES AND CITATION PROCEDURES; PROVIDING FOR INCLUSION IN THE CODE ENFORCEMENT CITATION ORDINANCE OF PALM BEACH COUNTY, FLORIDA; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CAPTIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has determined that accumulation of garbage, waste, and trash, for lengthy periods of time before scheduled pick up by garbage collection, negatively impacts upon the health, safety, and welfare of the citizens of Palm Beach County; and

WHEREAS, an accumulation of garbage, waste, and trash attracts rodents and vermin, may obstruct passage over and the view of roadways and has a negative effect on the aesthetics of an area; and

WHEREAS, the Board of County Commissioners has recognized that the increase in population and development in the County has resulted in a need for new and improved methods of collection through automation and a need for better efficiency in collection while maintaining a high level of service throughout the County; and

WHEREAS, this Ordinance will maintain, protect and promote the continued health, safety, and welfare and is in the best interests of the citizens of Palm Beach County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Article 1. REPEAL AND REPLACEMENT

Section 25-1, Palm Beach County Code, codifying Palm Beach County Ordinance No. 96-9, is hereby repealed in its entirety and replaced with the following:

Section 25-1. – Garbage Collection

(a) **TITLE.**

This Ordinance shall be titled and known as the “Garbage and Yard Waste Collection Ordinance of Palm Beach County, Florida.”

(b) **DEFINITIONS.**

The following terms and phrases shall have the meaning set forth below, unless the context clearly indicates otherwise.

Collection Point shall mean the swale, parkway or area adjacent to the street, where the Garbage or Yard Waste is placed for collection. The Collection Point shall not include public walkways, sidewalks, or streets.

Garbage shall mean refuse, rubbish, waste and trash from residential, commercial or industrial activities, including, but not limited to, kitchen and table waste, animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food; paper; cloth; plastics; discarded household goods and appliances; and similar materials. "Garbage" does not include Yard Waste.

Garbage Cart shall mean a container provided by the Solid Waste Authority of Palm Beach County for the disposal of Garbage at the Collection Point.

Maximum Allowable Yard Waste shall mean an accumulation of Yard Waste at the Collection Point of six (6) cubic yards or less, calculated by the following: $(L \times W \times H)/27$ (measured in feet).

Non-Conforming Yard Waste shall mean one or more of the following: whole trees, root balls, tree trunks or other bulky non-containerized vegetative material; vegetative material resulting from large scale landscape projects, land/lot clearing, or other similar debris not conducive to manual hand loading; and Yard Waste that does not conform to the size and weight restrictions contained in Section 25-1(c)(1)(h) below.

Non-Conforming Waste shall mean construction, or other similar debris not conducive to manual hand loading.

Yard Waste shall mean leaves, grass, plants, small branches or other similar material resulting from normal yard maintenance, tree trimming and landscaping.

Yard Waste Containers includes garbage cans, trash cans, or other types of containers used to hold or contain Yard Waste that do not to exceed fifty (50) gallons in size.

(c) REQUIREMENTS, PROHIBITIONS AND EXEMPTIONS.

- (1) Garbage Carts and Yard Waste Containers shall be placed for collection in accordance with the following:
- a. Garbage Carts and Yard Waste Containers shall be placed at the Collection Point no earlier than 3:00 p.m. on the day preceding the day upon which collection is customarily made.
 - b. Garbage Carts and Yard Waste Containers shall be removed from the Collection Point on the same day collection is scheduled to occur.
 - c. Garbage Carts and Yard Waste Containers shall be placed within two feet of the street curb or edge of road right-of-way and readily accessible from the street or alley where collection service is rendered.
 - d. Garbage must be placed in the Garbage Cart provided by the Solid Waste Authority of Palm Beach County.
 - e. Garbage Carts and Yard Waste Containers shall be placed at least three feet from any obstruction including, without limitation, automobiles, trailers, motor homes, fences, lampposts, mailboxes, or fire hydrants and in front of any fence or other barrier or enclosure if any.
 - f. Garbage Carts and Yard Waste Containers shall be placed in a manner that provides the collector with unimpeded access.
 - g. Except when placed for collection service in accordance with subsection 25-1 (c) (1) a.-f. above, Garbage Carts and Yard Waste Containers shall be placed in a storage location within, adjacent to, or behind a structure, building, fence, landscaping, or other barrier which substantially screens the view of the Garbage Cart and Yard Waste Container from the street or public right-of-way.
 - h. Yard Waste must be under six (6) feet in length per piece, under six (6) inches in diameter per piece, and under fifty (50) pounds in weight per container or piece with the exception of palm fronds, which may be any size as long as neatly stacked at the Collection Point.

- (2) It is the responsibility of the property owner, occupant, tenant, lessee and agent to comply with these regulations.
- (3) Properties where Garbage Carts or Yard Waste Containers are confined to a designated collection area and are secured from accidental dislodging or disturbance are exempt from restrictions contained in subsection 25-1 (c) (1) g., e.g. fenced areas for Garbage Carts with street facing openings.
- (4) Only Yard Waste below the Maximum Allowable Yard Waste Volume shall be placed at the Collection Point within the placement period described in Section 25-1(c)(1)a.
- (5) In the event Yard Waste in excess of the Maximum Allowable Yard Waste, Non-Conforming Yard Waste or Non-Conforming Waste is placed at the Collection Point, no part or portion of such waste will be removed by the Solid Waste Authority of Palm Beach County or the hauler contracted by the Solid Waste Authority of Palm Beach County; instead, the entire curbside accumulation will remain at the Collection Point and may be tagged with instructions regarding removal. The property owner and any other party identified in subsection 25-1(c)(2) shall be responsible for causing the removal of such Yard Waste, Non-Conforming Yard Waste, or Non-Conforming Waste.
- (6) Exemptions. The prohibitions contained in this section shall not apply to storm generated debris resulting from a hurricane or other natural disaster.

(d) ENFORCEMENT, PENALTIES AND CITATION PROCEDURES:

- (1) This Ordinance may be enforced by any officer of the Code Enforcement Division of Palm Beach County ("County") or an inspector of the Solid Waste Authority of Palm Beach County ("SWA").
- (2) It shall be unlawful for any person to fail, neglect, or refuse to comply with and abide by each provision of this Ordinance. The performance on each day of any prohibited act or practice, or the failure to perform on each day any required act or practice shall constitute a separate offense and shall be punishable as such.
- (3) *Applicability.* This section shall be applicable in the unincorporated areas of Palm Beach County.

- (4) The violation of any provision of this Ordinance may be enforced pursuant to the procedures and penalties of F.S. § 162.01 et seq. and Article 10 of the Palm Beach County Unified Land Development Code.
- (5) The provisions of this Ordinance may also be enforced pursuant to Chapter 8.5, Article II, of the Palm Beach County Code (the “Code Enforcement Citation Ordinance of Palm Beach County, Florida”) and shall be punishable as set forth therein.
- (6) In addition to the sanctions contained herein, the County or SWA shall be authorized to take any other appropriate legal action, including, but not limited to, seeking cease and desist orders, instituting other administrative actions, and requesting temporary and permanent injunctions to enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide additional and cumulative remedies.

**Article 2. INCLUSION IN THE CODE ENFORCEMENT CITATION
ORDINANCE OF PALM BEACH COUNTY, FLORIDA**

Schedule “A” of Chapter 8.5, Article II, of the Palm Beach County Code (the “Code Enforcement Citation Ordinance of Palm Beach County, Florida”) is hereby amended to include the list of infractions/prohibitions attached hereto as Exhibit 1.

Article 3. REPEAL OF LAWS IN CONFLICT:

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Article 4. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Article 5. CAPTIONS:

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Article 6. SAVINGS CLAUSE:

Notwithstanding anything to the contrary, all provisions of Palm Beach County Code Section 25-1 codifying Palm Beach County Ordinance 96-9, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations of said Code which occurred prior to its repeal or amendment.

Article 7. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word “ordinance” may be changed to “section,” “article” “code” or other appropriate word.

Article 8. EFFECTIVE DATE:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

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APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
County, Florida, on this the ____ day of _____, 2019.

SHARON R. BOCK, CLERK

**PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY
COMMISSIONERS**

By: _____
Deputy Clerk

By: _____
Mayor Mack Bernard

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 2019.

EXHIBIT 1
INFRACTIONS/PROHIBITIONS

EXHIBIT 1

<u>Code Provision</u>	<u>Description</u>	<u>Class</u>	<u>Fine Amount</u>
Ordinance No. 20__-__ Section 25.1, Palm Beach County Amended Garbage Collection Ordinance	<p>(1) Garbage Carts and Yard Waste Containers shall be placed for collection in accordance with the following:</p> <p>a. Garbage Carts shall be placed at the Collection Point no earlier than 3:00 p.m. on the day preceding the day upon which Garbage collection is customarily made.</p> <p>b. Garbage Carts shall be removed from the Collection Point on the same day collection is made.</p> <p>c. Garbage Carts and Yard Waste Containers shall be placed within two feet of the street curb or edge of road right-of-way in front of any fence or other barrier or enclosure and readily accessible from the street or alley where collection service is rendered.</p> <p>d. Garbage must be placed in the Garbage Cart provided by the Solid Waste Authority of Palm Beach County.</p> <p>e. Garbage Carts and Yard Waste Containers shall be placed at least three feet from any obstruction such as automobiles, trailers, motor homes, fences, lampposts, mailboxes, or fire hydrants.</p> <p>f. Garbage Carts and Yard Waste Containers shall be placed in a manner that provides the collector with unimpeded access.</p> <p>g. Except when placed for collection service in accordance with subsection 25-1 (b) (1) a.-f. above, Garbage Carts and Yard Waste Containers shall be placed in a storage location within, adjacent to, or behind a structure, building, fence, landscaping, or other barrier, which substantially screens the view of the Garbage Carts and Yard Waste Containers from the street or public right-of-way.</p> <p>h. Yard Waste must be under six (6) feet in length per piece, under six (6) inches in diameter per piece, and under fifty (50) pounds in weight per container or piece with the exception of palm fronds, which may be any size as long as neatly stacked at the Collection Point.</p> <p>(2) It is the responsibility of the property owner or occupant, tenant, lessee or agent, to comply with these regulations.</p> <p>(3) Properties where Garbage Carts or Yard Waste Containers are confined to a designated collection area and are secured from accidental dislodging or disturbance are exempt from restrictions contained in 25-1 (b) (1) g, h, e.g. fenced areas for Garbage Carts with street facing openings.</p> <p>(4) No Yard Waste that does not meet the definition of Maximum Allowable Yard Waste or that is Non-Conforming Yard Waste shall be placed at the Collection Point.</p>	IV	\$250.00

	<p>(5) In the event Yard Waste in excess of the Maximum Allowable Yard Waste or Non-conforming Yard Waste is placed at the Collection Point, no part or portion of such Yard Waste will be removed by the Solid Waste Authority of Palm Beach County or the hauler contracted by the Solid Waste Authority of Palm Beach County; instead, the entire curbside accumulation will remain at the Collection Point and will be tagged with instructions for the property owner regarding removal. The property owner shall be responsible for causing the removal of such tagged Yard Waste or Non-Conforming Yard Waste.</p> <p>(6) Exemptions. The prohibitions contained herein shall not apply to storm generated debris resulting from a hurricane or other natural disaster.</p>		
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SUMMARY OF CHANGES

- The following defined terms have changed from the previous ordinance:

Collection Point shall mean the swale, parkway or area adjacent to the street, where the Garbage or Yard Waste is placed for collection. The Collection Point shall not include public walkways, sidewalks, or streets.

Garbage shall mean refuse, rubbish, waste and trash from residential, commercial or industrial activities, including, but not limited to, kitchen and table waste, animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food; paper; cloth; plastics; discarded household goods and appliances; and similar materials. "Garbage" does not include Yard Waste.

- The following are new defined terms that did not exist in the previous ordinance:

Garbage Cart shall mean a container provided by the Solid Waste Authority of Palm Beach County for the disposal of Garbage at the Collection Point.

Maximum Allowable Yard Waste shall mean an accumulation of Yard Waste at the Collection Point of six (6) cubic yards or less, calculated by the following: $(L \times W \times H)/27$ (measured in feet).

Non-Conforming Yard Waste shall mean one or more of the following: whole trees, root balls, tree trunks or other bulky non-containerized vegetative material; vegetative material resulting from large scale landscape projects, land/lot clearing, or other similar debris not conducive to manual hand loading; and Yard Waste that does not conform to the size and weight restrictions contained in Section 25-1(c)(1)(h) below.

Non-Conforming Waste shall mean construction, or other similar debris not conducive to manual hand loading.

Yard Waste shall mean leaves, grass, plants, small branches or other similar material resulting from normal yard maintenance, tree trimming and landscaping.

Yard Waste Containers includes garbage cans, trash cans, or other types of containers used to hold or contain Yard Waste that do not to exceed fifty (50) gallons in size.

- A section was added to the new ordinance called "REQUIREMENTS, PROHIBITIONS AND EXEMPTIONS":

- (1) Garbage Carts and Yard Waste Containers shall be placed for collection in accordance with the following:
 - a. Garbage Carts and Yard Waste Containers shall be placed at the Collection Point no earlier than 3:00 p.m. on the day preceding the day upon which collection is customarily made.
 - b. Garbage Carts and Yard Waste Containers shall be removed from the Collection Point on the same day collection is scheduled to occur.
 - c. Garbage Carts and Yard Waste Containers shall be placed within two feet of the street curb or edge of road right-of-way and readily accessible from the street or alley where collection service is rendered.
 - d. Garbage must be placed in the Garbage Cart provided by the Solid Waste Authority of Palm Beach County.

- e. Garbage Carts and Yard Waste Containers shall be placed at least three feet from any obstruction including, without limitation, automobiles, trailers, motor homes, fences, lampposts, mailboxes, or fire hydrants and in front of any fence or other barrier or enclosure if any.
 - f. Garbage Carts and Yard Waste Containers shall be placed in a manner that provides the collector with unimpeded access.
 - g. Except when placed for collection service in accordance with subsection 25-1 (c) (1) a.-f. above, Garbage Carts and Yard Waste Containers shall be placed in a storage location within, adjacent to, or behind a structure, building, fence, landscaping, or other barrier which substantially screens the view of the Garbage Cart and Yard Waste Container from the street or public right-of-way.
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- (2) It is the responsibility of the property owner, occupant, tenant, lessee and agent to comply with these regulations.
 - (3) Properties where Garbage Carts or Yard Waste Containers are confined to a designated collection area and are secured from accidental dislodging or disturbance are exempt from restrictions contained in subsection 25-1 (c) (1) g., e.g. fenced areas for Garbage Carts with street facing openings.
 - (4) Only Yard Waste below the Maximum Allowable Yard Waste Volume shall be placed at the Collection Point within the placement period described in Section 25-1(c)(1)a.
 - (5) In the event Yard Waste, in excess of the Maximum Allowable Yard Waste, Non-Conforming Yard Waste or Non-Conforming Waste is placed at the Collection Point, no part or portion of such waste will be removed by the Solid Waste Authority of Palm Beach County or the hauler contracted by the Solid Waste Authority of Palm Beach County; instead, the entire curbside accumulation will remain at the Collection Point and may be tagged with instructions regarding removal. The property owner and any other party identified in subsection 25-1(c)(2) shall be responsible for causing the removal of such Yard Waste, Non-Conforming Yard Waste, or Non-Conforming Waste.
 - (6) Exemptions. The prohibitions contained in this section shall not apply to storm generated debris resulting from a hurricane or other natural disaster.

- The "ENFORCEMENT, PENALTIES AND CITATION PROCEDURES" was revised to allow for enforcement by inspectors of the Solid Waste Authority in addition to Palm Beach County Code Enforcement Officers. This new provision is as follows:

- (1) This Ordinance may be enforced by any officer of the Code Enforcement Division of Palm Beach County ("County") or an inspector of the Solid Waste Authority of Palm Beach County ("SWA").

There are also new violation and enforcement procedures as follows:

- (4) The violation of any provision of this Ordinance may be enforced pursuant to the procedures and penalties of F.S. § 162.01 et seq. and Article 10 of the Palm Beach County Unified Land Development Code.
- (5) The provisions of this Ordinance may also be enforced pursuant to Chapter 8.5, Article II, of the Palm Beach County Code (the "Code Enforcement Citation Ordinance of Palm Beach County, Florida") and shall be punishable as set forth therein.
- (6) In addition to the sanctions contained herein, the County or SWA shall be authorized to take any other appropriate legal action, including, but not limited to, seeking cease and desist orders, instituting other administrative actions, and requesting temporary and permanent injunctions to enforce the provisions of this Ordinance. It is the purpose of this Ordinance to provide additional and cumulative remedies.

- The remaining Articles 2-7 of the previous ordinance are non-substantive changes and remain substantially similar in all respects.
- Article 8 provides for the new ordinance to become effective immediately upon filing with the Department of State.