ORDINANCE NO: 2019-14

AN ORDINANCE OF ALACHUA COUNTY, FLORIDA,
AMENDING THE CODE OF ORDINANCES TO PROHIBIT
THE USE OF EXPANDED POLYSTYRENE CONTAINERS
AND SINGLE-USE CARRY OUT PLASTIC BAGS;
PROVIDING A CIVIL CITATION PENALTY; PROVIDING
A SEVERABILITY CLAUSE; PROVIDING A REPEALING
CLAUSE; AND PROVIDING AN EFFECTIVE DATE AND
AN ENFORCEMENT DATE.

WHEREAS, the Alachua County Board of County Commissioners declares that it is in
the best interest of the public health, safety and welfare of its residents and visitors to reduce
litter and pollutants on the land and in the waters of the unincorporated areas of Alachua County;
and

WHEREAS, expanded polystyrene is a petroleum-based plastic, most commonly and
incorrectly referred to by the name of “Styrofoam,” which is actually the proprietary trade name
of a polystyrene foam product; and

WHEREAS, expanded polystyrene containers and single-use carry out plastic bags are
detrimental to the environment because they do not fully degrade, they overburden landfills,
introduce unsafe chemicals into the environment, become litter and create hazards for land and
aquatic animals due to ingestion, and create impediments to waste reduction and recycling goals,
while creating unsightly litter; and

WHEREAS, use and distribution of expanded polystyrene containers and single-use
carry out plastic bags by retailers to consumers for use in carrying purchased goods has a
detrimental effect on the public health, safety and welfare of the City, County and State; and

WHEREAS, expanded polystyrene and plastic bags constitute a portion of the litter in
the unincorporated areas of Alachua County’s streets, parks, public places and waterways; and
WHEREAS, as an environmental leader among local governments in the State of Florida, the goal of Alachua County is to replace expanded polystyrene and single-use carry out plastic bags with reusable, recyclable, or compostable alternatives whenever possible; and

WHEREAS, retail establishments such as ALDI, Trader Joes, and Lucky’s have successfully incorporated programs that encourage the use of reusable and/or recyclable alternatives to single use carry-out plastic bags; and

WHEREAS, this Ordinance provides for an implementation period (during which this ordinance will not be enforced) allowing retail establishments to expend their current stock of expanded polystyrene containers and single-use carry out plastic bags and transition to reusable, recyclable, or compostable alternatives; and

WHEREAS, the Alachua County Board of County Commissioners finds that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of County residents and visitors and future generations; and

WHEREAS, at least 10 days’ notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of the public hearing to be held in the John "Jack" Durrance Auditorium, Board Room 209, County Administration Building, Gainesville, Florida; and

WHEREAS, the public hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:
Section 1. Section 75.100 of the Alachua County Code of Ordinances, titled “Definitions,” is amended as follows:

Sec. 75.100 – Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless the context clearly requires otherwise:

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assessed property means all parcels of land included on the assessment roll that receive a special benefit from the provision of solid waste collection and disposal services identified in the initial assessment resolution.

Assessment roll means a non-ad-valorem assessment roll relating to solid waste costs, approved by a final assessment resolution pursuant to section 75.405, Alachua County Code.

Biomedical waste means any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary wastes which contain human disease-causing agents; discarded disposable sharps; human blood, and human blood products and body fluids; and other materials which, in the opinion of the department of health and rehabilitative services, represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under F.S. ch. 470.

Board means the Board of County Commissioners of Alachua County, Florida.

Building means any structure, whether temporary or permanent, built for the support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

Bulk items means those items that may require special handling and management, including, but not limited to: white goods, materials not exceeding two cubic yards resulting from an improvement to the internal portion of a home; and any and all household goods and furniture. Bulk items must be usual to housekeeping and must be generated by the customer at the dwelling unit where the bulk item is collected. Bulk items do not include items herein defined as exempt waste.

Certificate of occupancy means the written certification issued by the county or any municipality within the county that a building is ready for occupancy for its intended use. A set-up or tie-down permit issued for a mobile home shall be considered a certificate of occupancy for the purposes of this chapter.
Certified recycler means a "certified recovered materials dealer" as defined in section 403.7046, Florida Statutes.

Clerk means the clerk of the circuit court, ex officio clerk of the board of county commissioners, Alachua County, Florida.

Commercial collection service means the collection and transportation of recyclable material, yard trash and solid waste from commercial property by the owner or any other person to a solid waste management facility.

Commercially collected residential property means residential property that has been reclassified as commercial property pursuant to section 75.408 of the Alachua County Code.

Commercially-generated waste means rubbish, yard trash or bulk items, or any combination thereof, generated by builders, building contractors, privately-employed tree trimmers, loggers and tree surgeons, landscape services and lawn or yard maintenance services and nurseries, which shall not be collected as residential solid waste.

Commercial property means all improved property other than residential property and governmental property.

Condominium means a building or portion thereof containing one or more dwelling units in which each unit is designed for residential occupancy by one household only and which is owned pursuant to the provisions of F.S. ch. 718 or its successor in function.

Construction and demolition debris means materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project, and including rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as other than construction and demolition debris.

Container means any detachable container designed or intended to be mechanically or otherwise dumped into a loader/packer-type truck used by a permit holder or contractor.

Contractor means a person authorized by contract with the board to provide residential collection service in the unincorporated area of the county.

County means Alachua County, Florida.

County manager means the County Manager of Alachua County or the designee of such person.
Curbside/roadside means the physical location, as determined by the county manager, for the placement of refuse accumulations intended for residential service collection and disposal. This designated location shall be as near as possible to the edge of the traveled streets or alleys.

Designated municipality means a municipality whose governing board has adopted an ordinance agreeing to be included within the solid waste unit.

Designated recyclable materials means glass and plastic bottles and jars, no larger than two (2) gallons in size; yogurt cups; margarine tubs; aluminum and metal cans, including empty aerosol cans; newspapers; magazines; catalogs; telephone books; corrugated cardboard; pasteboard; brown paper bags; junk mail; and office paper.

Director means the director of the Division of Waste Management of the Public Works Department of Alachua County, or the designee of such person.

Division of waste management means the division of waste management within the Public Works Department of Alachua County.

Dwelling unit means a building, or a portion thereof, which is lawfully used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one household only.

Exempt waste means, singularly or in combination, biohazardous, biomedical or biological waste, commercially-generated waste, tires, construction and demolition debris, land clearing debris, hazardous waste, sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, used oil, yard trash units which weigh more than 40 pounds, and residential or commercial solid waste for which there is no legally permitted disposal, processing, transfer or storage facility within Alachua County.

Expanded polystyrene containers means plates, bowls, cups, containers, lids, trays, coolers, ice chests, food containers and all similar articles that consist of blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead foam), injection molding, foam molding and extrusion-blown molding (extruded foam polystyrene).

Explosion means the sudden conversion of potential energy (chemical or mechanical) into kinetic energy with the production and release of gases under pressure, or the release of gas under pressure. These high pressure gases then do mechanical work such as moving, changing, or shattering nearby materials.

Explosive means any chemical compound, mixture, or device the primary purpose of which is to function by explosion.
Final assessment resolution means the resolution described in section 75.405 hereof, which shall confirm or deny the initial assessment resolution and which shall be the final proceeding for the imposition of a solid waste assessment.

Fiscal year means that period beginning October 1 of each year and ending on September 30 of the subsequent year.

Flammable means capable of burning with a flame.

Food service provider means a person or entity that provides food directly to the consumer, regardless of whether such food is provided free of charge or sold, or whether consumption occurs on or off premises, or whether the food is provided from a building, pushcart, stand or vehicle. Food service providers include, but are not limited to, restaurants, cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies, bakeries, caterers, gas stations, vending or food trucks or carts and cafeterias.

Garbage means all kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

Government property means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a special district or a municipal corporation.

Hazardous material means any substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety and property. This term includes hazardous waste as defined in F.S. § 403.703(23).

Hazardous waste means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

Improved property means all property within the county on which sits a building or other improvement, including, but not limited to, facilities providing retail electrical service to such property, which improvement results in such property generating solid waste or being capable of generating solid waste.

Income exemption standard means the adjusted cumulative gross income standard for all lawful occupants of residential property as adopted by the board by resolution.
Industrial property means a non-residential parcel that has been assigned by the Property Appraiser to a property use code of 4000, 4100 or 4200 of the codes established by the Florida Department of Revenue in Rule 12 D.008, Florida Administrative Code.

Initial assessment resolution means the resolution described in section 75.401 hereof, which shall be the initial proceeding for the imposition of a solid waste assessment.

Institutional property means a dwelling unit owned by any state, county or municipal housing authority, or the federal government or an agency thereof, which is exempt from the payment of ad valorem taxes.

Materials recovery facility means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

Multifamily dwelling unit means any building or structure containing two or more dwelling units held under common ownership.

Municipality means any of the municipalities within the county, including the City of Alachua, the City of Archer, the City of Gainesville, the City of Hawthorne, the City of High Springs, the City of La Crosse, the Town of Micanopy, the City of Newberry and the City of Waldo.

Non-ad valorem assessment means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in Article X, § 4, State of Florida Constitution.

Non-universal area means the portion of the unincorporated area of the county as designated by the board by resolution pursuant to section 75.300 hereof.

Notice of proposed property taxes means the notice of proposed ad valorem taxes prepared by the Alachua County Property Appraiser as required by F.S. § 200.069.

Permit holder means a person authorized by the board to provide commercial collection service in the unincorporated area.

Person means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of Florida or any other state; any county of the state; and any governmental agency of the state or the federal government.

Premises means any structure or parcel of land where solid waste or recovered materials are created or accumulated.

Property appraiser means the property appraiser of Alachua County.

Recovered materials means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source
separated or have been removed from the solid waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.

*Recovered materials processing facility* means a facility engaged solely in the storage, processing, resale, or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of § 403.7045(1)(e), Florida Statutes.

*Recyclable material* means those materials which are capable of being reclaimed and processed for reuse and which would otherwise be processed or disposed of as solid waste.

*Recyclable materials* means those recovered materials, as defined in F.S. § 403.703(7), which are capable of being recycled and which would otherwise be processed or disposed of as residential or commercial solid waste.

*Recycling* means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

*Recycling container* means a rigid container made of plastic or other suitable substance distributed by the county or contractor for the storage and accumulation of recyclable materials.

*Refuse* means both rubbish and garbage, or a combination or mixture of rubbish and garbage, including paper, glass, metal, textile materials and other discarded matter.

*Residential collection service* means the collection and transportation of recyclable material, yard trash, and other solid waste from residential property by a contractor to a solid waste management facility.

*Residential property* means all improved property which is used as single-family dwelling units and condominiums, and multifamily dwelling units consisting of less than ten units within the same building, unless such single-family dwelling unit, condominium or multifamily dwelling unit has been reclassified as commercial property pursuant to section 75.408. Residential property does not include institutional property.

*Residential solid waste* means any garbage, rubbish, yard trash or bulk item that is usual to housekeeping. Residential solid waste is solid waste generated by the customer at the dwelling unit at which the residential solid waste is collected and does not include items defined herein as commercially-generated waste or exempt waste.

*Retail establishment* means any person or entity engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmers' market vendor, and any other sales outlet where a customer can directly purchase goods, materials, and products.
Reusable carryout bags, meaning carryout bags that are specifically designed and manufactured for multiple reuse, and are constructed out of any of the following materials:

1. Cloth, other washable fabric, or other durable materials whether woven or non-woven;
2. Recyclable plastic that has a minimum thickness of 2.25 mils; or
3. Recyclable paper.

Rubbish means waste material other than garbage, usually attendant to domestic households or housekeeping, and attendant to the operation of stores, offices, and other business places. Rubbish shall include, but is not limited to, paper, magazines, packaging, receptacles, textile materials, excelsior, bottles, cans, and ceramic material.

Rural collection center means a solid waste management facility designated by the director that accepts recyclable material, yard trash and other solid waste, processes it and transfers it for disposal at another solid waste management facility.

Sharps means those biomedical wastes which as a result of their physical characteristics are capable of puncturing, lacerating or otherwise breaking the skin when handled.

Single-family dwelling unit means a building or a portion thereof, designed for residential occupancy, which is arranged, designed or used as living quarters for one household only.

Single-use carry out plastic bag means a bag provided to a customer, typically at the point of sale or distribution, for the purpose of transporting items, which is made predominantly of plastic derived from petroleum or a biologically-based source with a thickness of less than 2.25 mils.

Sludge includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

Solid waste means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials are not solid waste.

Solid waste assessment means a non-ad-valorem assessment lawfully imposed by the county against assessed property to provide solid waste management and the provision of collection and disposal services and facilities including the generation of revenue necessary to pay all or any portion of the solid waste cost.

Solid waste assessment coordinator means the person designated by the director to administer the solid waste assessment program.

Solid waste cost means (1) the amount necessary in any fiscal year to fund and provide solid waste management to assessed property in the county, which shall include recycling.
activities undertaken by the county or mandated by any other governmental entity, and the
provision of collection and disposal services, programs and facilities; and (2) the estimated
cost to be incurred during any fiscal year relating to the collection of the solid waste
assessments, including any service charges of the tax collector and property appraiser and
any amounts necessary to offset the maximum discounts available for early payment of non-
ad-valorem assessments pursuant to applicable law. Solid waste costs include, but are not
limited to, costs associated with monitoring closed landfills and the management of property
intended for future solid waste facilities.

Solid waste management facility means any solid waste disposal area, volume reduction
plant, transfer station, materials recovery facility, or other facility, the purpose of which is
resource recovery or the disposal, recycling, processing, or storage of solid waste. The term
does not include recovered materials processing facilities which meet the requirements of
F.S. § 403.7046(4), except the portion of such facilities, if any, that is used for the
management of solid waste. The term includes a materials recovery facility.

Source separated means the recovered materials are separated from solid waste where the
recovered materials and solid waste are generated. The term does not require that various
types of recovered materials be separated from each other and recognizes de minimis solid
waste, in accordance with industry standards and practices, may be included in the
recovered materials. Materials are not considered source separated when two or more types
of recovered materials are deposited in combination with each other in a commercial
collection container located where the materials are generated and such materials contain
more than ten percent solid waste by volume or weight. For purposes of this subsection, the
term "various types of recovered materials" means metals, paper, glass, plastic, textiles, and
rubber.

Special event permittee means any entity or person, and their subcontractors, agents or
affiliates, who has been issued a special event permit or license agreement by the County
for a special event on County property, in a County facility or in the County's right-of-way,
for the promotion or sale of their products and/or business.

Special wastes means solid wastes that can require special handling and management,
including, but not limited to, white goods, waste tires, used oil, lead-acid batteries,
construction and demolition debris, ash residue, yard trash and biological wastes.

Tax collector means the tax collector of the county.

Tax roll means the real property ad valorem tax assessment roll maintained by the property
appraiser of the county for the purpose of the levy and collection of ad valorem taxes.

Tenant means any person entitled to occupy an improved property pursuant to a rental
agreement or lease with the owner regardless of whether the agreement or lease is in
writing.
Uniform Assessment Collection Act means F.S. §§ 197.3632 and 197.3635 or any successor statutes authorizing the collection of non-ad-valorem assessments on the same bill as ad valorem taxes.

Universal area means the portion of the unincorporated area of the county as designated by the board by resolution pursuant to section 75.300 hereof.

White goods includes inoperative and discarded refrigerators, ranges, water heaters, freezers, room air conditioners and other similar domestic and commercial large appliances.

Yard trash means vegetative matter resulting from landscaping maintenance and land-clearing operations, and includes, but is not limited to, materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

Section 2. A new Section, 75.211, titled “Prohibition On Use Of Expanded Polystyrene And Single-Use Carry Out Plastic Bags,” is created to read as set forth below. Except as amended herein, the remainder of Chapter 75 of the Alachua County Code of Ordinances remains in full force and effect.

Sec. 75.211 – Prohibition on Use of Expanded Polystyrene and Single-Use Carry Out Plastic Bags.

(a) Food service providers and retail establishments shall not sell, use, offer for sale or use, or provide food or beverage in expanded polystyrene containers. Food service providers and retail establishments shall not sell, use, offer for sale or use, or provide to any person a single-use carry out plastic bag.

(1) Exceptions: Although the discontinuation of the use of expanded polystyrene containers and single-use carry out plastic bags is strongly encouraged, this section shall not apply to:

a. Expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service provider or retail establishment;

b. Expanded polystyrene containers used to store raw meat or seafood sold from a butcher case or similar refrigerated display or storage case;

c. Compostable bags that (i) conform to the current ASTM D6400; (ii) are certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (iii) are capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials;

d. Reusable carryout bags, as defined in this chapter; or
e. Any bags without handles provided to a customer (i) to protect food or merchandise
from being damaged or contaminated by other food or merchandise, when items are
placed together in a reusable bag or recyclable bag, including produce bags; (ii) to hold
prescription medications dispensed from a pharmacy or veterinary office; or (iii) that is
designed to be placed over articles of clothing on a hanger, including dry cleaning bags;

(b) Special event permittees, or any vendor operating under that permittee, shall not sell,
use, provide food or drink in, or offer the use of, expanded polystyrene containers or single-use
carry out plastic bags in or on County facilities. Upon warning, the special event permittee or
any vendor operating under that permittee must stop use of the expanded polystyrene
containers or single-use carry out plastic bags, as applicable.

Section 3. Section 24.16 of the Alachua County Code of Ordinances is hereby amended as
set forth below. Except as amended herein, the remainder of Section 24.16 remains in full force
and effect.

Sec. 24.16. - Applicable codes and ordinances.

| 75.211 | Expanded polystyrene containers and single-use carry out plastic bags | II | $250.00 |

Section 4. It is the intention of the Alachua County Board of County Commissioners that
the provisions of Section 1, Section 2, and Section 3 of this Ordinance shall become and be made
a part of the Code of Ordinances of the County of Alachua, Florida, and that the sections and
paragraphs of this Ordinance may be renumbered or relabeled in order to accomplish such
intentions.

Section 5. If any word, phrase, clause, paragraph, section or provision of this ordinance
or the application hereof to any person or circumstance is held invalid or unconstitutional, such
finding shall not affect the other provisions or application of the ordinance which can be given
effect without the invalid or unconstitutional provisions or application, and to this end the
provisions of this ordinance are declared severable.
Section 6. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 7. This ordinance shall become effective immediately upon adoption; however, to allow time for food service providers and retail establishments to expend their current stock of expanded polystyrene containers and single-use carry out plastic bags and transition to reusable, recyclable, or compostable alternatives, the County will not commence enforcement of this ordinance until 8:00 a.m. on January 1, 2020.

PASSED AND ADOPTED THIS _________ DAY OF ________________, 2019.

__________________________________
Charles Chestnut, IV, Chair
Board of County Commissioners
Date: _____________________________

ATTEST: Approved as to form and legality

__________________________________ __________________________________
J.K. “Jess” Irby, Esq., Clerk Alachua County Attorney’s Office

This ordinance passed on this _____ day of ____________, 2019.