

POLICY REGARDING THE PROVIDING OF SURPLUS SPOIL DIRT
OF THE
HOLMES COUNTY BOARD OF COUNTY COMMISSIONERS

WHEREAS, Chapter 274, *Florida Statutes*, governs the disposal of tangible personal property owned by Holmes County, Florida; and

WHEREAS, Chapter 274, *Florida Statutes*, necessitates that if dirt belonging to Holmes County has commercial value, then said dirt should be sold to the highest bidder or offered to other governmental units pursuant to Section 274.05, *Florida Statutes*; and

WHEREAS, the Florida Constitution prohibits Counties from using their taxing power or credit to aid private persons or corporations without compensation; and

WHEREAS, dirt belonging to Holmes County that is deemed to have no commercial value, hereinafter called "surplus spoil dirt", may be offered to the public if no County funds are expended in disposing or transferring the surplus spoil dirt (See Florida Attorney General Opinion 82-18); and

WHEREAS, the Holmes County Board of County Commissioners has determined that it is in the best interest of the citizens of Holmes County to establish a policy regarding the providing of surplus spoil dirt to private persons or corporations so long as the donated surplus spoil dirt meets the requirements of the Florida Constitution and Chapter 274, *Florida Statutes*; and

WHEREAS, the Holmes County Board of County Commissioners will continue to donate surplus spoil dirt to other governmental units to the fullest extent as may be allowed pursuant to Chapter 274, *Florida Statutes*; and

WHEREAS, nothing in this policy regarding surplus spoil dirt shall restrict the Holmes County Board of County Commissioners from placing dirt on private property where said placement has a reasonable correlation to the protection of a County road or a County right-of-way.

NOW THEREFORE, let it be the policy of the Holmes County Board of County Commissioners as follows:

1. The following policies shall be adhered to regarding the disposing of surplus spoil dirt to private persons and/or corporations:

A. All dirt that is deemed to be surplus spoil dirt, being generally dirt that is pulled from the ditches or County rights-of-way during normal County road maintenance operations, and which is found to have no commercial value by Holmes County, may be offered to the public, both private persons and corporations, for free.

B. Should surplus spoil dirt be deemed to have no commercial value by the County and be offered to the public for free, no additional costs shall be incurred by the County in delivering or transferring said surplus spoil dirt to private persons or corporations.

C. No private citizen or corporation shall receive more than two (2) loads of surplus spoil dirt in a calendar year. Said allowance shall be limited to two (2) loads of surplus spoil dirt per valid 911 address.

D. Surplus spoil dirt will only be provided based on the availability of said surplus spoil dirt and when the County deems the dirt surplus. This policy in no way guarantees the availability of any amount of surplus spoil dirt to any private citizen or corporation, and the scheduling of all requests for surplus spoil dirt shall be specifically contingent upon the availability of the surplus spoil dirt and any other County resources.

E. Surplus spoil dirt shall be placed in an area as close as practicable to the owner's property line adjoining a roadway. In no instance shall said surplus spoil dirt be placed more than fifty (50) feet off of a road right-of-way, and being no more than fifty (50) feet on the requestor's property.

F. The Holmes County Coordinator, in conjunction with the County's Road and Bridge Department, shall be responsible for the creation of a "Request for Dirt Form" and to establish a process by which the number and location of loads of surplus spoil dirt delivered to private citizens and/or corporations are catalogued and recorded.

2. It is the intent of the Board of County Commissioners of Holmes County, Florida, that this policy only be applied in accord with Florida law.

3. This policy shall supersede and replace any previous policy put in place by the Board of County Commissioners of Holmes County, Florida, regarding surplus spoil dirt. Specifically, that policy created on January 31, 2017, regarding the providing of surplus dirt is hereby superseded and replaced in its entirety by the provisions of this policy.

4. This policy shall take effect immediately upon its passing by the Board of County Commissioners of Holmes County, Florida.

PASSED by the Board of County Commissioners of Holmes County, Florida, on this 14th day of November, 2017.

BY: _____
CLINT ERICKSON, Chairman HCBOCC

ATTEST: _____
KYLE HUDSON, Clerk of Court