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|--------------|
| Meeting Date |
| 1/28/2014 |



| AGENDA | |
|----------|----------------|
| Section | Public Hearing |
| Item No. | V.D |

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

| | |
|--------------|--|
| SUBJECT: | Public Hearing: Ordinance to Chapter 94, Solid Waste, Brevard County Code of Ordinances. |
| DEPT/OFFICE: | Solid Waste Management Department |

Requested Action:

It is requested the Board consider an ordinance to amend Chapter 94 of the Brevard County Code of Ordinances relating to solid waste regulations.

Summary Explanation & Background:

Under Chapter 403.706, Florida Statutes, Brevard County has the responsibility and authority to provide for the operation of solid waste management facilities to meet the disposal needs of all the incorporated and unincorporated areas of the County. The current County regulations governing solid waste, Chapter 94 of the Brevard County Code, prescribe the manner in which solid waste is to be collected in the unincorporated areas of Brevard County and the means by which the County's solid waste management program is implemented to efficiently dispose of solid waste generated within the incorporated and unincorporated areas of the County.

Under the County's new collection agreement with the County's franchised collector, the manner in which solid waste and recyclable materials are collected within the unincorporated area of the County has changed and the Code must be amended to reflect these changes and eliminate discrepancies between the Code and the collection agreement.

In addition, in order to provide efficient and equitable solid waste disposal services for the current and future needs of the citizens of Brevard County, it is necessary for the County to ensure entities using the County's solid waste management collection and/or disposal services pay for such services.

To that end, it is proposed that Chapter 94 of the Code of Ordinances of Brevard County be amended to incorporate changes in the solid waste and recycling collection services now provided under the new collection agreement and to include services fees for those properties not included in the special assessments, but receiving collection and/or disposal services, to pay for such services.

Specifically the proposed amendments to Chapter 94 would:

- Add and amend definitions to reflect changes to solid waste collection program and disposal practices.
- Add definition of service fees to be paid by properties that are exempt from special assessments, but receive collection and disposal services as required by bond covenants and special act, and to provide a procedure for invoicing such entities.
- Include specifications and requirements for use of automated carts for the collection of solid waste and recyclable materials.
- Provide a procedure for commercial properties to "opt out" of collection services by the franchised collector.
- Deny access to the County's solid waste management facilities for those entities who do not pay the required service fees or gate fees, or to roll-off permittees who violate their permit requirements.
- Other changes necessary to ensure consistency with collection and disposal practices, and State Law.

Fiscal Impact: No fiscal impact.

Contact: Euripides Rodriguez, Director (633-2042)

Clerk to the Board instruction:

Exhibits Attached: Proposed Ordinance; copy of newspaper advertisement (01/13/14)

| | | | | | | |
|--|--|--|--------------------------|----|--------------------------|--|
| Contract /Agreement (If attached): Reviewed by County Attorney | | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | PR <input checked="" type="checkbox"/> |
| County Manager | Deputy County Manager Stockton Whitten | Department Director / Extension Euripides Rodriguez (52042) | | | | |
| Howard Tipton | Assistant County Manager Mel Scott | | | | | |

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52 FICTITIOUS NAME

AD#322057, 01/13/2014

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56 PUBLIC NOTICE

AD#321855, 01/13/2014

NOTICE OF SOLID WASTE CODE CHANGE

The Brevard County Board of County Commissioners proposes to adopt the following ordinance described below. A public hearing to consider this ordinance will be held during the Board of County Commissioner's Meeting on January 28, 2014 beginning at 9:00 AM in the Commission Chambers, 1st floor Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida

AN ORDINANCE AMENDING CHAPTER 94, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA ENTITLED SOLID WASTE; SPECIFICALLY AMENDING SEC. 94-1 DEFINITIONS; SEC. 94-2 AUTHORITY OF BOARD TO OPERATE SOLID WASTE DISPOSAL SYSTEM; SEC. 94-32 MANDATORY COLLECTION OF SOLID WASTE; SEC. 94-46 REQUIREMENTS GOVERNING REMOVAL OF SOLID WASTE FROM RESIDENTIAL PROPERTY; SEC. 94-47 RESIDENTIAL RECEPTACLES, IMPROPER RECEPTACLES, COLLECTION POINT; SEC. 94-49 YARD TRASH COLLECTION; SEC. 94-61 REQUIREMENTS GOVERNING REMOVAL OF SOLID WASTE FROM COMMERCIAL PROPERTY; SEC. 94-62 COMMERCIAL RECEPTACLES; SEC. 94-74 REQUIREMENTS FOR DISPOSAL AND REMOVAL OF CONSTRUCTION AND DEMOLITION DEBRIS AND LANDCLEARING DEBRIS; LIMITED EXEMPTION FOR ON-SITE DISPOSAL; LIMITED EXEMPTION FOR ON-SITE INCINERATION; SEC. 94-91 COLLECTION AGREEMENTS AUTHORIZED; PUBLIC HEARING; NOTICE; PERMITS; SEC. 94-92 UNLAWFUL TO OPERATE WITHOUT A COLLECTION AGREEMENT OR PERMIT; SEC. 94-93 ROLL-OFF COLLECTION SERVICE PERMIT APPLICATION, FEES, DURATION; SEC. 94-97 GENERAL PERMIT CONDITIONS; SEC. 94-117 RECYCLING CONTAINERS; CURBSIDE RECYCLABLE MATERIALS COLLECTION SERVICE; PLACEMENT OF RECYCLABLE MATERIALS; SEC. 94-118 OWNERSHIP OF RECYCLABLE MATERIALS; SEC. 94-119 MAINTENANCE OF PROPERTIES; SEC. 94-197 DISPOSAL PROHIBITIONS; ARTICLE IV. - FEES; DIVISION 2. - SPECIAL ASSESSMENTS; SEC. 94-232 DETERMINATION OF ANNUAL SPECIAL ASSESSMENTS; SEC. 94-233 PUBLIC HEARING; SEC. 94-234 PREPARATION AND CERTIFICATION OF ANNUAL SPECIAL ASSESSMENT ROLLS TO TAX COLLECTOR; SEC. 94-235 METHOD OF COLLECTION OF ANNUAL SPECIAL ASSESSMENTS; SEC. 94-236 SPECIAL ASSESSMENTS PRIOR TO INITIATION OF FIRST FULL YEAR ANNUAL SPECIAL ASSESSMENTS; PAYMENT OF PRORATED SPECIAL ASSESSMENTS; DISCHARGE OF LIEN; SEC. 94-237 SEPARATELY PREPARED ANNUAL SPECIAL ASSESSMENT NOTICES; SEC. 94-238 CORRECTION OF ERRORS AND OMISSIONS; PETITION TO BOARD; SEC. 94-240 ANNUAL SPECIAL ASSESSMENT TO GOVERNMENTAL AGENCIES, COUNTY AGENCIES AND LEASEHOLD INTEREST IN IMPROVED REAL PROPERTY LEASED TO OR BY A GOVERNMENTAL AGENCY; SEC. 94-241 EXEMPTIONS FROM ANNUAL COLLECTION AND RECYCLING PROGRAM SPECIAL ASSESSMENTS; CRITERIA; SEC. 94-242 EXEMPTION APPLICATION; FILING DATE; REVIEW; DENIAL; APPEAL; REVOCATION; SEC. 94-244 APPLICABILITY OF SPECIAL ASSESSMENTS TO TAX-EXEMPT IMPROVED REAL PROPERTY; SEC. 94-245 VACANCY ADJUSTMENT FOR IMPROVED REAL PROPERTY FROM ANNUAL SPECIAL ASSESSMENTS; CRITERIA; SEC. 94-246 VACANCY ADJUSTMENT PETITION; FILING DATE; REVIEW; DENIAL; APPEAL; SEC. 94-258 IMPOSITION OF SOLID WASTE IMPACT FEE; SEC. 94-260 PAYMENT OF IMPACT FEE; SEC. 94-263 EXEMPTIONS; SEC. 94-276 PUBLIC HEARING TO DETERMINE AMOUNTS; SEC. 94-277 LANDFILL GATE ACCOUNTS, PAYMENT OF DEPOSITS, SPECIAL RATES; DELINQUENCY; COLLECTION; EXEMPTIONS; PROVIDING FOR RESOLUTION OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

Copies of the ordinance to be considered can be reviewed at Solid Waste Management Office, 1st floor Building A, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purposes, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Persons seeking to preserve a verbatim transcript of the record must make those arrangements at their own expense.

The needs of the hearing or visually impaired persons shall be met if the department sponsoring the meeting/hearing is contacted at least 5 days prior to the public meeting/hearing by any person wishing assistance.

Per: Euripides Rodriguez, Director
Solid Waste Management Dept.
Brevard County Government Center
2725 Judge Fran Jamieson Way, Bldg. A
Viera, FL 32940
(321) 633-2042

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Brevard County Attorney
Ordinance Approval Sheet

Christine
LePore
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ready. 52042

SECTION I

The following information must be completed on all ordinances submitted to the Board:

| | | | |
|--|--|---|-------------------------------|
| Ordinance Name: Amending Chapter 94, Solid Waste Code | | Ordinance Author: Deborah Lugar/Merritt Cogswell | |
| Division Name: Solid Waste Management Department | | Mail Stop: #81 | Review Deadline: 1/10/2013 |
| Sent by: 1/8/14 | | | |
| Dept/Office Director: Euripides Rodriguez | | | |
| Meeting Date: BCC 1/28/2014 | | Advertising Deadline: 1/14/2014 | |

SECTION II

COUNTY OFFICE

County Attorney's Office

APPROVAL
Yes No

INITIALS

DATE

OL

1/14/14

SECTION III

Sent for review :

Land Development

____Y ____N ____NA

ONRM

____Y ____N ____NA

Other Dept/Office

____Y ____N ____NA

Comments:

ORDINANCE 14-

AN ORDINANCE AMENDING CHAPTER 94, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA ENTITLED "SOLID WASTE"; SPECIFICALLY AMENDING SEC. 94-1 DEFINITIONS; SEC. 94-2 AUTHORITY OF BOARD TO OPERATE SOLID WASTE DISPOSAL SYSTEM; SEC. 94-32 MANDATORY COLLECTION OF SOLID WASTE; SEC. 94-46 REQUIREMENTS GOVERNING REMOVAL OF SOLID WASTE FROM RESIDENTIAL PROPERTY; SEC. 94-47 RESIDENTIAL RECEPTACLES, IMPROPER RECEPTACLES, COLLECTION POINT; SEC. 94-49 YARD TRASH COLLECTION; SEC. 94-61 REQUIREMENTS GOVERNING REMOVAL OF SOLID WASTE FROM COMMERCIAL PROPERTY; SEC. 94-62 COMMERCIAL RECEPTACLES; SEC. 94-76 REQUIREMENTS FOR DISPOSAL AND REMOVAL OF CONSTRUCTION AND DEMOLITION DEBRIS AND LANDCLEARING DEBRIS; LIMITED EXEMPTION FOR ON-SITE DISPOSAL; LIMITED EXEMPTION FOR ON-SITE INCINERATION; SEC. 94-91 COLLECTION AGREEMENTS AUTHORIZED; PUBLIC HEARING; NOTICE; PERMITS; SEC. 94-92 UNLAWFUL TO OPERATE WITHOUT A COLLECTION AGREEMENT OR PERMIT; SEC. 94-93 ROLL-OFF COLLECTION SERVICE PERMIT APPLICATION, FEES, DURATION; SEC. 94-97 GENERAL PERMIT CONDITIONS; SEC. 94-117 RECYCLING CONTAINERS; CURBSIDE RECYCLABLE MATERIALS COLLECTION SERVICE; PLACEMENT OF RECYCLABLE MATERIALS; SEC. 94-118 OWNERSHIP OF RECYCLABLE MATERIALS; SEC. 94-119 MAINTENANCE OF PROPERTIES; SEC. 94-197 DISPOSAL PROHIBITIONS; ARTICLE IV. - FEES; DIVISION 2. - SPECIAL ASSESSMENTS; SEC. 94-232 DETERMINATION OF ANNUAL SPECIAL ASSESSMENTS; SEC. 94-233 PUBLIC HEARING; SEC. 94-234 PREPARATION AND CERTIFICATION OF ANNUAL SPECIAL ASSESSMENT ROLLS TO TAX COLLECTOR; SEC. 94-235 METHOD OF COLLECTION OF ANNUAL SPECIAL ASSESSMENTS; SEC. 94-236 SPECIAL ASSESSMENTS PRIOR TO INITIATION OF FIRST FULL YEAR ANNUAL SPECIAL ASSESSMENTS; PAYMENT OF PRORATED SPECIAL ASSESSMENTS; DISCHARGE OF LIEN; SEC. 94-237 SEPARATELY PREPARED ANNUAL SPECIAL ASSESSMENT NOTICES; SEC. 94-238 CORRECTION OF ERRORS AND OMISSIONS; PETITION TO BOARD; SEC. 94-240 ANNUAL SPECIAL ASSESSMENT TO GOVERNMENTAL AGENCIES, COUNTY AGENCIES AND LEASEHOLD INTEREST IN IMPROVED REAL PROPERTY LEASED TO OR BY A GOVERNMENTAL AGENCY; SEC. 94-241 EXEMPTIONS FROM ANNUAL COLLECTION AND RECYCLING PROGRAM SPECIAL ASSESSMENTS; CRITERIA; SEC. 94-242 EXEMPTION APPLICATION; FILING DATE; REVIEW; DENIAL; APPEAL; REVOCATION; SEC. 94-244 APPLICABILITY OF SPECIAL ASSESSMENTS TO TAX-EXEMPT IMPROVED REAL PROPERTY; SEC. 94-245 VACANCY ADJUSTMENT FOR IMPROVED REAL PROPERTY FROM ANNUAL SPECIAL ASSESSMENTS; CRITERIA; SEC. 94-246 VACANCY ADJUSTMENT PETITION; FILING DATE; REVIEW; DENIAL; APPEAL; SEC. 94-258 IMPOSITION OF SOLID WASTE IMPACT FEE; SEC. 94-260 PAYMENT OF IMPACT FEE; SEC. 94-263 EXEMPTIONS; SEC. 94-276 PUBLIC HEARING TO DETERMINE AMOUNTS; SEC. 94-277 LANDFILL GATE ACCOUNTS, PAYMENT OF DEPOSITS, SPECIAL RATES; DELINQUENCY; COLLECTION; EXEMPTIONS; PROVIDING FOR RESOLUTION OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, under the authority of Section 403.706, Florida Statutes, Brevard County has the responsibility and power to provide for the operation of solid waste management facilities to meet the needs of all unincorporated and incorporated areas of the county; and

WHEREAS, Chapter 94-Solid Waste, Code of Ordinances of Brevard County, prescribes the manner in which solid waste shall be collected in the unincorporated areas of Brevard County and the means by which the County's solid waste

management program is implemented to efficiently dispose of solid waste generated within the incorporated and unincorporated areas of the County in an environmentally acceptable manner; and

WHEREAS, changes in state and local regulations require that amendments to Chapter 94 be made to ensure clear, consistent and lawful application of the requirements of the Code of Ordinances of Brevard County, Florida.

WHEREAS, the requirements and duties of the franchised solid waste collector for the collection of solid waste from residential and commercial improved real properties in the unincorporated areas of Brevard County are prescribed in the agreement between Waste Management and Brevard County dated March 21, 2013, and effective October 1, 2013; and

WHEREAS, certain requirements in Chapter 94-Solid Waste, Code of Ordinances of Brevard County for the collection of solid waste and recyclable materials by the authorized collector conflicts with said agreement; and

WHEREAS, in order for the County to provide efficient and equitable solid waste disposal services that provides for the current and future needs of the citizens of both the incorporated and unincorporated areas of Brevard County it is necessary for the County ensure all properties receiving solid waste service pay for such services through solid waste assessments, service fees, and gate charges;

WHEREAS, Section 197.3632, Florida Statutes, sets forth the local government process for the adoption and annual imposition of non-ad valorem special assessments, including the collection and recycling program special assessments and the disposal special assessments.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

SECTION 1. Certain definitions in Sec. 94-1. Definitions, Code of Ordinances of Brevard County, Florida, ~~are~~ hereby amended to read as follows:

Annual collection and recycling program special assessment means the annual special assessment imposed upon a parcel of residential improved real property in the solid waste collection and recycling program municipal service benefit unit for the ~~curbside~~ collection of solid waste and recyclable materials from the property, the transportation of the solid waste and recyclable materials to a solid waste management or recycling facility, ~~and~~ the billing for the ~~curbside~~ collection of the solid waste and recyclable materials; and ~~the annual special assessment imposed upon a parcel of improved real property in the benefit unit~~ for the implementation of the recycling plan adopted by the board of county commissioners. The assessment for the applicable fiscal year is based upon the classification of the use of such property as specified in the rate resolution.

Annual collection and recycling program special assessment roll means the list prepared by the director and confirmed by the board of county commissioners each fiscal year containing a summary description of each parcel of residential improved real property within the solid waste collection and recycling program benefit unit; the name and address of each parcel as indicated on the records maintained by the property appraiser; the rate classification applicable to each parcel of improved real property as specified in the rate resolution; and the amount of the annual collection and recycling program special assessment applicable to each parcel of residential improved real property within the benefit unit.

Annual disposal special assessment means the annual special assessment imposed upon each parcel of improved real property in ~~solid waste disposal municipal service benefit unit-the county~~ for the disposal of solid waste for the applicable fiscal year based upon the classifications of the use of such property as specified in the rate resolution.

Annual disposal special assessment roll means the list prepared by the director and confirmed by the board of county commissioners each fiscal year containing a summary description of each parcel of improved real property ~~within the county~~within the solid waste disposal municipal benefit unit; the name and address of the owner of each such parcel as indicated on the records maintained by the property appraiser; the rate classification applicable to each parcel of improved property as specified in the rate resolution; and the amount of the annual disposal special assessment applicable to each parcel of improved real property.

Automated collection ~~container-cart see definition of solid waste receptacle-~~ means a 36, 64 or 96 gallon durable plastic container with recycled content, approved by the director, and used for storing and identifying either solid waste or recyclable materials at the collection point. The cart shall have a lid, wheels and handles and shall be capable of being serviced mechanically by the collector's automated collection vehicles. The automated solid waste collection cart shall be uniform in color. The automated recyclable materials cart shall have a yellow lid.

Benefit unit means as context dictates, either (1) the solid waste collection and recyclable program municipal service benefit unit, which includes all residential improved within the unincorporated area of Brevard County, a description of the boundary is on file in the office of the director; or (2) the solid waste disposal municipal service benefit unit which includes all improved real properties in Brevard County.

Biological waste means solid waste that causes or has the capability of causing disease or infection and includes biomedical waste, animals that died from disease, and other wastes capable of transmitting pathogens to humans or animals. The term does not include human remains that are disposed of by persons licensed under Chapter 470, F.S.

~~Bulk commercial unit means any commercial, nonresidential unit receiving solid waste collection service at an accessible, centralized location or at a commercial container.~~

~~Bulk multiple-family residence means any building or buildings containing more than one permanent living unit or any trailer within a trailer park receiving solid waste collection service at an accessible, centralized location collection point or at a commercial container.~~

Bulky or special collection solid waste means items whose large size or weight precludes or complicates their handling by normal collection, processing or disposal methods and includes any of the following types of solid waste for the customer categories designated below:

- (1) Single-family residence, ~~and individual multiple-family residences-and individual commercial unit~~: Any type of solid waste not reasonably capable of being placed in an automated solid waste receptacle collection cart, or any item not reasonably capable of being reduced in size, not exceeding four feet in length and 24 inches in diameter and 50 pounds in weight. This shall include white goods, electronics, tires, normal household furnishings and other bulk items.
- (2) ~~Bulk Commercial unit and bulk multiple-family residences~~: Any type of solid waste not reasonably capable of being placed in a solid waste commercial container, or any pickup of a commercial container on a frequency in excess of that normally established for the customer or receptacle or any solid waste placed in solid waste receptacles at a centralized location not in conformity with the size and type weight requirements specified above for a single-family residence.

~~CCA treated wood means lumber, timber, or plywood treated with chromated copper arsenate. This term does not include utility poles unless they have been ground, chipped, or shredded.~~

Certificate of occupancy means a certificate issued by the building official, or municipal building official where applicable, upon completion of a building, erected in accordance with approved building, construction, site development, or applicable plans, after the final inspection and upon payment of all applicable impact fees. A certificate of occupancy shall state the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of chapter 22, Code of Ordinances, Brevard County, Florida or the applicable municipal building code.

Clean debris means any uncontaminated concrete including embedded pipe or steel; brick; glass; ceramic; uncontaminated sand, gravel, soil, stone and other items approved by the director. Examples of material that are not clean debris include: plastics; asphalt; asphalt shingles; drywall; lumber; metal; landclearing debris; yard ~~trashwaste~~, paper, garbage or agricultural wastes. Contamination of clean debris with any amount of other types of solid waste will cause it to be classified as solid waste.

Collection days means those days designated by the collector and approved by the director for collection of solid waste, yard waste, and recyclable materials from improved real property in a designated service area.

Collection point ~~or curbside collection point~~ means:

- (1) *Single-family and individual multiple family residence*: A point within five feet from the curbline or paving line of the nearest public street; or in the case of the existence of a drainage ditch, at a point within said dimensions on the nearest driveway. If such a location would cause undue hardship to the customer or the collector or create a health or safety concern to the public the collection point shall be designated by the collector in consultation with the customer and shall be subject to approval by the director in the event of a dispute.
- (2) ~~*Individual commercial unit and individual multiple family residence*: At those points designated by the collector in consultation with the customer and shall be subject to approval by the director in the event of a dispute. The collection point shall maximize economy in the collection of recyclable materials and solid waste while considering the public health and convenience to the customer.~~
- (3) ~~*Bulk Multiple-family residence and bulk commercial unit*~~: A point designated by the collector in consultation with the customer and shall be subject to approval by the director in the event of a dispute. The location of the collection point shall maximize economy in the collection of recyclable materials and solid waste while considering the public health and convenience to the customer.

Collection service means the collection of solid waste, yard waste, or recyclable materials from improved real property under authority of a collection agreement with the board.

Collector means the person authorized to collect and transport solid waste, yard waste, or residential recyclable materials generated within specific portions of the county by the board of county commissioners under the provisions of a collection agreement.

Commercial unit or establishments means any non-residential improved real property commercial-business establishment, including, but not being limited to, motels, hotels, stores, office buildings, restaurants, service stations, garages, laundries and cleaning establishments, industrial establishments, churches and associated buildings, and schools, and all other places not classified as residential, which generate or accumulate solid waste.

Commercial improved real property or non-residential improved real property means any improved real property primarily used for commercial or industrial activities, enterprises, or establishments, and excludes all improved real property primarily used for residential purposes.

~~*Curbside recyclable materials collection service* means the collection of recyclable materials from single-family residences, individual multiple family residences, bulk multiple family residences, individual commercial units, and bulk commercial units at the curb or at the designated collection point for recyclable materials.~~

~~*Curbside solid waste collection service* means the collection of solid waste from residential improved real properties in the benefit unit at the curb or at the designated collection point for recyclable materials.~~

Fee payer means any person commencing a land development activity by applying for a building permit and having a certificate of occupancy issued, or a person who commences to initially use county's solid waste disposal facilities.

Gate account means an account established by a person or entity for the use of the solid waste management facilities operated by the board.

~~Individual commercial unit means any commercial, nonresidential unit receiving curbside solid waste collection service in a normal volume not in excess of an amount capable of being placed in three 32-gallon solid waste receptacles twice a week.~~

~~Individual multiple-family residence means any building containing more than one permanent living unit and receiving curbside solid waste collection service from at each unit, and all trailers located within trailer parks receiving curbside solid waste collection service from at each individual trailer.~~

~~Landclearing debris means rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project. Land clearing debris does not include vegetative matter from lawn maintenance, commercial or residential landscape maintenance, right-of-way or easement maintenance, farming operations, nursery operations, or any other source not directly related to a construction project.~~

~~Landfill gate account or landfill disposal account means a payment account established by a person for the use of the solid waste management facilities operated by the board.~~

~~Multiple-family residence means any building or structure or portion of any building or structure designed or constructed for and capable of use for one or more permanent residences in which each unit is not individually owned.~~

~~Prohibited waste means those wastes not permitted for disposal in the county's solid waste management system as described in 94-197(a)~~

~~Receptacle. See Solid waste receptacle.~~

~~Recyclable materials collection service means the collection of recyclable materials from residential improved real property under authority of a collection agreement.~~

~~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 condition of Chapter 62-701.220(c) F.A.C. as amended.~~

~~Recyclable materials means any materials which can be recovered from the solid waste stream and reused in manufacturing, agriculture, power production or other processes. For the purpose of curbside recyclable materials collection service to residential single- and multiple-family units and individual commercial units, recyclable materials shall include those materials as determined by the director and described in the collection agreement at a minimum include the following:~~

~~(1) — Newspapers (newsprint).~~

~~(2) — Glass jars and bottles (clear, brown and green glass, food and beverage bottles).~~

~~(3) — Plastic bottles (HDPE and PETE bottles). No motor oil, antifreeze, pesticide, pool chemical or other hazardous materials bottles.~~

~~(4) — Aluminum or bimetal cans (soft drink and beer cans).~~

~~Recycler means any person involved in commercial recycling activities.~~

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

~~Recycling container means an automated recycling materials cart or container or bin approved by the director, used for storing and collecting recyclable materials and identifying the recyclable materials at the collection point.~~

~~Roll-off container means any container used for the collection and storage of construction and demolition debris or landclearing debris or other waste approved by the director that can be picked up by and transported on a specially equipped truck to the disposal site. The definition of roll-off container does not include a compactor box or automated collection container cart.~~

~~Scavenging means the act of removing recyclable materials from recycling containers carts placed at the collection point without the specific written permission of the director.~~

Service fees means the charges imposed in lieu of special assessments for the collection of solid waste by the county's solid waste collector and/or the disposal of solid waste at the county's solid waste management facilities.

Solid waste, as defined in Rule Chapter 62-701.200, Florida Administrative Code F.S., means sludge that is not regulated under the Federal Clean Water Act or Clean Air Act, as well as, 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, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Materials not regulated as solid waste pursuant to this chapter are: recovered materials; nuclear source or byproduct materials regulated under F.S. Ch. 404, or under the Federal Atomic Energy Act of 1954 as amended; suspended or dissolved materials in domestic sewage effluent or irrigation return flows, or other regulated point source discharges; regulated air emissions; and fluids or wastes associated with natural gas or crude oil exploration or production.

Solid waste collection service means the collection of solid waste from improved real property under authority of a collection agreement.

Solid waste receptacle means:

- ~~(1) A galvanized metal, durable plastic or other suitable impervious material container commonly sold as a garbage can, including wheeled containers, of not greater than 32-gallon capacity or less than five-gallon capacity which shall be free of jagged or sharp edges and shall be watertight and equipped with two handles upon the side or bail by which it may be lifted, and provided with a tightfitting cover suitable to protect the contents from flies, insects, rats and other animals, and which shall not have any inside structures, such as inside bands or reinforcing angles or anything within that would prevent the free discharge of the contents. Such receptacle may include a waterproof bag that can be safely and securely closed. Such waterproof bag shall be of adequate strength to hold the contents when the bag is lifted and of a type and size acceptable to the collector and approved by the director; or~~
- ~~(2) A container approved by the collector-director that is capable of being serviced mechanically by the collector's automated collection vehicle, also referred to as and includes an automated solid waste collection containercart, commercial container, or compactor box and used only in service areas designated by the director for the use of automated collection vehicles.~~

Special collection solid waste, see Bulky waste

Special solid waste means certain types of solid waste which, in the opinion of the director, cannot be disposed of at the solid waste disposal facilities maintained by the board of county commissioners in accordance with normal operating procedures of the facilities; or which require laboratory analysis to determine their acceptability at the county's solid waste management facilities; or which must be specially handled in accordance with other approval criteria. Special solid waste may include, but is not limited to, asbestos-containing materials, industrial sludge, legally emptied chemical containers, petroleum contaminated soils or nonhazardous solidified paint coatings.

Trash means ~~combinations of yard trashwaste, and~~ construction and demolition debris along-withor other debris such as paper, cardboard, cloth, glass, street sweepings, tires and other like matter.

Yard trash-waste means any vegetative matter generated from improved real property such as leaves, grass or shrubbery cuttings resulting from the care of lawns or landscape maintenance. Such term does not include large quantities of sod dirt, landclearing debris or other materials requiring special handling.

Yard waste collection service means the collection of yard waste from improved real property under authority of a collection agreement.

Yard waste receptacle means a galvanized metal, durable plastic or other suitable impervious material container commonly sold as a garbage can, including wheeled containers, of not greater than 40-gallon capacity or less than five-gallon capacity which shall be free of jagged or sharp edges and shall be equipped with two handles upon the side or bail by which it may be lifted, and which shall not have any inside structures, such as inside bands or reinforcing angles or anything within that would prevent the free discharge of the contents.

SECTION 2. Sec. 94-2. Authority of board to operate solid waste disposal system, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-2. Authority of board to operate solid waste disposal system.

On the authority of F.S. § 403.706, and Laws of Fla. ch. 67-~~1145~~1146, as amended, the board of county commissioners has the responsibility, power and authority to construct, acquire, improve, maintain and operate a solid waste disposal system within the territorial boundaries of the county, and territory adjacent thereto, for its own use and benefit of persons, firms, corporations, municipalities, political subdivisions or other public agencies or bodies located within the territorial boundaries of the county or territory adjacent thereto, who shall use the facilities and services of such solid waste disposal system; and to require all lands, buildings and premises in the county to use facilities and services of such solid waste disposal system in all cases deemed necessary or desirable by the board of county commissioners for the public health and safety of the county and the inhabitants thereof.

SECTION 3. Sec. 94-32. Mandatory collection of solid waste, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-32. Mandatory collection of solid waste.

(a) Unless otherwise exempt or prohibited, all solid waste generated and accumulated within the solid waste collection and recycling program municipal service benefit unit shall be collected and removed by a collector and disposed of at the county's solid waste management facilities or at a solid waste management facility where all applicable federal, state and local government permits for such activity have been acquired.

(a)(b) The collector is not responsible for the collection and disposal of landclearing debris, construction and demolition debris, prohibited waste, or other wastes specifically excluded from the collection services agreement. Said solid wastes shall be removed and disposed of by the owner in accordance with applicable laws and regulations.

SECTION 4. Sec. 94-46. Requirements governing removal of solid waste from residential property, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-46. Requirements governing removal of solid waste from residential property.

- (a) All solid waste, ~~other than landclearing debris~~, generated or accumulated on residential improved real properties within the benefit unit and within a service area of a collector shall be collected and removed by the collector unless otherwise provided in this chapter or prohibited from disposal in the solid waste disposal system. All residential improved real property within the benefit unit and within a service area of the collector shall be assessed by the board of county commissioners for collection services in accordance with the provisions of this chapter.
- (b) Unless otherwise exempt, all solid waste generated or accumulated on residential improved real properties within the unincorporated area of the county, but not within the service area of a collector, shall be removed by the owners and occupants of the property and disposed of at the county's solid waste management facilities or at a solid waste management facility where all applicable federal, state and local government permits for such activity have been acquired.

SECTION 5. Sec. 94-47. Residential receptacles, improper receptacles, collection point, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-47. Residential solid waste receptacles, improper receptacles, collection point.

(a) *Minimum solid waste receptacle specifications.*

- (1) Unless otherwise provided in this chapter, all solid waste generated from single-family residences and individual multiple-family residences shall be placed in automated solid waste ~~receptacles-collection carts provided by the collector, or in carts~~ meeting the standards defined in section 94-1, and shall be in sufficient number to hold a four-day accumulation of solid waste. Collection and disposal service may be refused for the failure to use a collection container compatible with the collector's automated collection vehicle.
- (2) Solid waste placed in collection carts shall not exceed the weight limit established by the manufacturer of the cart.
- (3) All solid waste generated from ~~bulk~~-multiple-family residences shall be placed by the customer in commercial containers or compactor boxes as defined in section 94-1.
- (4) All solid waste, including cans, bottles and other containers, shall be drained of all liquids prior to deposit in the required solid waste receptacles, ~~commercial containers or compactor boxes.~~
- (5) ~~RSolid waste receptacles and containers~~ shall be kept tightly closed at all times, except when depositing solid waste. Plastic bags used for containing solid waste within the solid waste receptacle shall meet the standards defined in section 94-1.
- ~~(1)(6)~~ All other solid waste not capable of being placed in a solid waste receptacle shall be neatly placed at the applicable collection point and shall include only items in size not exceeding four feet in length and 24 inches in diameter and 50 pounds in weight. Excess solid waste that will not fit in the receptacle shall be placed in plastic bags capable of containing the waste without ripping, tearing or bursting. Such wastes must be placed beside the solid waste receptacle so as not to interfere with the arms of the automated collection vehicle.
- ~~(2)(7)~~ A customer desiring pickup of bulky solid waste, as defined in section 94-1, shall notify the collector that they desire pickup of bulky waste and shall place such waste at the collection point on the collection day designated by the collector.

- (b) ~~Improper solid waste receptacles.~~ Any receptacle or container used for the collection or storage of solid waste failing to meet the requirements of this chapter shall be tagged by the collector. The tag shall clearly identify the manner in which the container fails to meet the specifications of a solid waste receptacle. If the customer does not remove the improper receptacle after it has been tagged twice, on two separate collection days, the collector shall have the right to refuse to service that receptacle.
- (c) *Collection point.* All solid waste and solid waste receptacles shall be placed by the customer at the applicable collection point as defined in section 94-1 except that:
- (1) Solid waste, ~~and~~ solid waste receptacles, ~~commercial containers or compactor boxes~~ shall be placed or be kept upon property in the ownership or tenancy of the person by whom the solid waste is generated and accumulated. Solid waste shall not be kept in the parkway of a property not in the ownership or tenancy of the person by whom the solid waste is accumulated.
 - (2) Solid waste, ~~and~~ solid waste receptacles, ~~commercial containers or compactor boxes~~ shall not be placed or kept upon county or public property, except solid waste and solid waste receptacles may be placed within the parkway during regular scheduled collection times. However, such solid waste and receptacles collection carts shall be neatly placed so as to allow convenient passage of persons and conveyances lawfully in the parkway. No receptacles or solid waste shall be placed in streets, gutters or drainage ditches.

- (3) All solid waste and solid waste receptacles shall be placed at the collection point on or before 6:00 a.m. of the collection day. In no event shall solid waste or solid waste receptacles be placed at the collection point before noon on the day prior to the regular collection day; and receptacles shall be removed from the collection point by noon on the day after the collection day.

SECTION 6. Sec. 94-49. Yard trash collection, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-49. Yard ~~trash~~ waste collection.

- (a) Yard waste set out for ~~curbside~~ collection shall not be placed in solid waste or recyclable material collection carts. ~~Yard waste shall not be~~ comingled with any other solid waste. Yard waste shall be set out at the collection point separated from all other solid waste.
- (b) All loose yard ~~trash~~ waste which includes leaves, pine needles, lawn clippings, palm fronds and tree and shrub trimmings shall be placed in ~~an appropriate solid yard~~ waste receptacle(s).
- (c) All yard trash not capable of being placed in a yard waste receptacle shall be neatly placed at the collection point and shall be cut in lengths not to exceed four feet in length and 24 inches in diameter and 50 pounds in weight. ~~Yard trashwaste not meeting the size and weight limits shall be considered as bulky solid waste.~~ For removal of ~~such yard~~ waste not meeting the size and weight limits, the customer shall notify the collector that they desire a pick up and the collector shall schedule a special collection.
- (d) Yard waste generated from vacant lots shall not be set out for ~~curbside~~ collection service.
- (e) Contractors engaged in the landscaping or tree cutting business shall be responsible for collection and disposal of the yard ~~trashwaste~~ generated from their operations. It shall be a violation of this section for any person(s) engaged in the business of tree trimming or landscaping to set out yard ~~trashwaste~~ for ~~curbside~~ pickup by a collector unless said yard ~~trashwaste~~ is placed in an appropriate ~~solid wasteyard waste~~ receptacle.
- (f) Persons engaged in clearing property shall be responsible for the collection and disposal of the landclearing debris. It shall be a violation of this section for any person(s) engaged in clearing land for any purpose, to place debris generated from such operations in any solid waste receptacle or yard waste receptacle or set out such waste for ~~curbside pickup collection service~~ by the collector.

SECTION 7. Sec. 94-61. Requirements governing removal and disposal solid waste from commercial property, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-61. Requirements governing removal ~~of~~ and disposal solid waste from commercial property.

Unless otherwise exempt or prohibited from disposal in the solid waste disposal system, all solid waste generated and accumulated on commercial improved real property within the benefit unit shall:

- (1) Be collected and removed by the collector and for such service the owners or occupants of the properties shall pay to the collector such fees and charges as limited by the rate resolution adopted by the board of county commissioners in accordance with section 94-233(2); or
- (2) Be removed and disposed of by the owner or occupant of the property at the county's solid waste management facilities; however, a request must be submitted in writing to the director outlining the methods and equipment utilized for both storage and transportation of solid waste to the County's facilities, and if approved by the director, a gate account shall be opened.

- ~~(3) Be removed and disposed of by the owner or occupant of the property or~~ at a solid waste management facility where all applicable federal, state and local government permits for such activity have been acquired; however, the methods and equipment utilized for both storage and transportation of solid waste to the facilities shall be approved by the director.

SECTION 8. Sec. 94-62. Commercial receptacles, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-62. Commercial receptacles.

(a) Minimum ~~receptacle~~ specifications.

- ~~(1) All solid waste shall be placed in solid waste receptacles, commercial containers, or compactor boxes meeting the standards defined in section 94-1 and shall be in sufficient number and size to hold a four-day accumulation of solid waste. The number of solid waste receptacles for individual commercial units shall not exceed three 32-gallon receptacles per collection.~~

- ~~(2) All solid waste, cans, bottles and other containers shall be drained of all liquids prior to deposit in the required solid waste receptacles, commercial containers or compactor boxes.~~

~~—All garbage from commercial establishments stored or collected in a commercial container or compactor box shall be enclosed in plastic bags meeting the standards defined in section 94-1 and which are securely closed.~~

- ~~(4)(3) Receptacles Solid waste receptacles and containers~~ shall be kept tightly closed at all times, except when depositing solid waste.

- ~~(2) Solid waste generated from individual commercial units not capable of being placed in a receptacle shall be neatly placed at the applicable collection point and shall include only items in size not exceeding four feet in length and 24 inches in diameter and 50 pounds in weight.~~

- ~~(2)(4) (3)~~—A customer desiring pickup of bulky solid waste, as defined in section 94-1, shall notify the collector that they desire pickup of bulky waste and shall place such waste at the collection point on the collection day designated by the collector.

- (b) Improper receptacles.** Any receptacle used for the collection or storage of solid waste failing to meet the requirements of this chapter shall be tagged by the collector. The tag shall clearly identify the manner in which the container fails to meet the specifications of solid waste receptacle. If the customer does not remove the improper receptacle after it has been tagged twice, on two separate collection days, the collector shall have the right to refuse to service that receptacle.

- (c) ~~Receptacle liners may be required. The collector may require use of receptacle liners, provided such requirements and collection procedures are approved by the director. Collectors shall give the customer written notice at least 15 days prior to initiating receptacle liner requirements. The notice shall outline collection procedures and a copy shall be filed with the director.~~**

- (d) Collection point.** All solid waste generated from commercial improved real property within the service area of a collector shall be placed by the customer at the applicable collection point defined in section 94-1 and in the following manner:

- (1)** Solid waste, ~~and~~ solid waste receptacles from ~~individual~~ commercial units shall be neatly placed at the collection point so as to allow convenient passage of persons and conveyances. No ~~solid waste or solid waste~~ receptacles ~~or solid waste~~ shall be placed or kept upon county or public property, except solid waste and ~~receptacles solid waste collection carts from individual commercial units~~ may be placed within the parkway during regular scheduled collection times. However, such solid waste and ~~receptacles solid waste collection carts~~ shall be neatly placed so as to allow convenient passage of persons and conveyances

lawfully in the parkway. No ~~receptacles or~~ solid waste or collection carts shall be placed in streets, gutters or drainage ditches.

- (2) Commercial containers and compactor boxes shall be located as close to the building or buildings as practical or otherwise concealed to prevent them from becoming a public nuisance. However, no commercial containers or compactor boxes shall be placed or kept upon public property.
- (3) All solid waste and solid waste ~~receptacles~~ collection carts shall be placed at the collection point on or before 6:00 a.m. of the collection day. In no event shall solid waste or solid waste ~~receptacles from individual commercial units~~ collection carts be placed at the collection point before noon on the day prior to the regular collection day; and receptacles shall be removed from the collection point by noon on the day after the collection day.

SECTION 9. Sec. 94-76. Requirements for disposal and removal of construction and demolition debris and landclearing debris; limited exemption for on-site disposal; limited exemption for on-site incineration, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-76. Requirements for disposal and removal of construction and demolition debris and landclearing debris; limited exemption for on-site disposal; limited exemption for on-site incineration.

- (a) *Disposal.* Except as specifically exempt in subsections (c) and (d) of this section, all construction and demolition debris and all landclearing debris generated within the county shall be disposed of at the county's solid waste management facilities or at a solid waste management facility where all applicable federal, state and local government permits for such activity have been acquired.
- (b) *Removal.* The actual generators of construction and demolition debris or landclearing debris and the owners of premises upon which such debris is generated or accumulated, jointly and severally, shall be responsible for the proper removal and disposal of the accumulations. The actual generators of construction and demolition debris or landclearing debris and the owners of premises upon which such debris is generated shall:
 - (1) Have the debris removed by an authorized collector and for such service shall pay the collector the fees and charges as limited by the rate resolution adopted by the board of county commissioners in accordance with subsection 94-233(2). Except that construction and demolition debris generated on residential improved properties from a homeowner's do-it-yourself project, that can be placed in a solid waste receptacle, ~~or cut in lengths not to exceed four feet and not to exceed 50 pounds in weight, may be placed at the collection point for regular curbside solid waste collection by the collector when in the opinion of the director the debris was not generated by a commercial contractor.~~
 - (2) Have the debris removed by a person permitted by the board to provide roll-off container service for the storage, collection and removal of construction and demolition debris and landclearing debris; or
 - (3) Collect and dispose of such debris themselves at the county's solid waste management facilities or a solid waste management facility where all applicable federal, state and local government permits for such activity have been acquired for the disposal of such waste. However, any person transporting construction and demolition debris on or over a public right-of-way shall use a vehicle that is constructed or loaded so as to prevent such debris from dropping, sifting, leaking, blowing, falling or otherwise being disbursed or discharged or escaping from such vehicles.
- (c) *Limited exemption for on-site disposal.* The actual generators of construction and demolition debris, landclearing debris, or yard ~~trash~~ waste or the owners of premises upon which such debris is generated, may dispose of the debris on-site or on property which is adjacent or contiguous to, and under common ownership and control with the property where the debris is generated. On-site disposal of such debris shall be accomplished only where the expressed permission of the owner of the property is given and all applicable federal, state and local government

permits for such activity have been acquired. This exemption shall not apply to construction and demolition debris or landclearing debris which has been mixed with other types of solid waste.

- (d) *Limited exemption for on-site incineration of landclearing debris.* The actual generators of landclearing debris, or the owners of premises upon which such debris is generated, may incinerate the debris on-site or on property which is adjacent or contiguous to, and under common ownership and control with the property where the debris is generated. On-site incineration of such debris shall be accomplished only where the expressed permission of the owner of the property is given and all applicable federal, state and local government permits for such activity have been acquired. This exemption shall not apply to landclearing debris which has been mixed with any other types of solid waste.

SECTION 10. Sec. 94-91. Collection agreements authorized; public hearing; notice; permits, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-91. Collection agreements authorized; public hearing; notice; permits.

- (a) The board of county commissioners may enter into collection agreements with any qualified person to provide for ~~the curbside collection of~~ solid waste and recyclable materials collection service, other than construction, demolition and landclearing debris, generated on improved real property within specified portions of the unincorporated areas of the county. Such agreements shall be exclusive for the ~~curbside collection of solid waste generated on improved real property within the service area and the term shall not exceed seven years. Such agreements shall be exclusive for the curbside collection of and for~~ recyclable materials from residential improved real properties within the service area, and the term shall not exceed seven years.
- (b) With respect to construction, demolition and landclearing debris, the board of county commissioners may ~~enter into collection agreements with, or~~ issue permits to, any qualified person to provide roll-off container service for the storage and collection of construction, demolition and land clearing debris from any real property in the unincorporated area of the county. The board shall adopt, by ordinance, permit procedures for such activity which may include, but are not limited to, requirements for application, permit conditions and permit fee. Such ~~agreements or~~ permits shall be nonexclusive and the term shall not exceed seven-five years.
- (c) Collection agreements shall contain, at a minimum, the following provisions: a description of the solid waste and recyclable materials service area; the name of the person granted the right to collect the solid waste and recyclable materials generated within the service area; the term of the agreement; the consideration to be paid to the county for such collection agreement, if any, and the method of payment; the service to be furnished by the collector; the amount and method of payment to the collector for his performance under the collection agreement; the performance bond, and the conditions thereof, to be furnished by the collector if one is deemed necessary; and such reasonable rules and regulations governing the performance by the collector as are deemed necessary to implement the provisions of this chapter and to effectively operate and maintain the county's solid waste disposal system.
- (d) Prior to entering into a collection agreement, the board of county commissioners shall hold a public hearing to consider the financial responsibility, competency and capability of performance of the proposed collector; the proposed cost of collection within the service area; and the amount of consideration, if any, proposed to be paid to the board by the collector.
- (e) Notice of the time and place of such public hearing shall be published one time in a newspaper of general circulation in the county at least 20 days prior to the hearing.

SECTION 11. Sec. 94-92. Unlawful to operate without a collection agreement or permit, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-92. Unlawful to operate without a collection agreement or permit.

- (a) It shall be unlawful for any person to collect solid waste, other than construction, demolition and landclearing debris, from any improved real property in the unincorporated area of the county, without first entering into a collection agreement with the board of county commissioners as authorized in section 94-91.
- (b) Commercial containers or compactor boxes for the storage or pickup of solid waste shall not be placed on any real property within the unincorporated area of the county, except by a person who has entered into a collection agreement with the board of county commissioners as authorized in section 94-91
- (c) Any person placing a roll-off container for the storage and removal of construction, demolition and landclearing debris from any real property in the unincorporated areas of the county, shall ~~either enter into a collection agreement with, or,~~ obtain a permit for such activity from, the board of county commissioners as authorized in section 94-91 or section 94-93
- (d) It is a violation of this Code for anyone to place a roll-off container for the storage and removal of construction, demolition ~~and or~~ landclearing debris on any real property in the unincorporated area of the county without ~~a collection agreement with, or,~~ a valid permit for such activity from the board of county commissioners.
- (e) It shall be unlawful for any person to carry on the business of ~~curbside~~ collection of recyclable materials from residential improved real properties in the unincorporated area of the county without first entering into a collection agreement with the board of county commissioners as authorized in section 94-91

SECTION 12. Paragraph (a) of Sec. 94-93. Roll-off collection service permit application, fees, duration, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-93. Roll-off collection service permit application, fees, duration.

- (a) Any person desiring to provide roll-off containers for the storage and removal of construction, demolition or landclearing debris on any real property in the unincorporated area of Brevard County shall file an application for a permit with the director. The application shall include at a minimum the following information: Applicant's name, address and phone number; emergency contact person, proof of applicable insurance, a list of equipment to be used to perform roll-off service, and the permit application fee as set by resolution of the board.

SECTION 13. Sec. 94-97. General Permit Conditions, Code of Ordinances of Brevard County, Florida, is hereby amended to add the following:

Sec. 94-97. General permit conditions.

(17) Access to the County's solid waste management facilities may be denied to any permit holder who fails to comply with the conditions of a permit.

SECTION 14. Sec. 94-117. Recycling containers; curbside recyclable materials collection service; recyclable materials placement of recyclable materials, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-117. ~~Recycling containers; curbside recyclable~~ Recyclable materials collection service; recyclable materials carts; placement of recyclable materials; improper receptacles.

- (a) All owners, residents or occupants of residential improved real properties ~~and individual commercial units~~ within the service area of a recyclable materials collector shall be provided ~~with a recycling container and curbside~~ recyclable materials collection service by the collector.
- (b) Recyclable materials generated from single-family residences and individual multiple-family residences shall be placed in automated recyclable materials collection carts meeting the standards defined in section 94-1.
- (c) Recyclable materials placed in collection carts shall not exceed the weight limit established by the manufacturer of the cart.
- (d) All recyclable materials generated from bulk multiple-family residences shall be placed by the customer in a recycling container or compactor boxes as defined in section 94-1 approved by the collector in consultation with the owner.
- (e) All recyclable materials, including cans, bottles and other containers, shall be drained of all liquids prior to deposit in the recycling container.
- (f) All ~~Recyclable~~ recyclable materials shall be placed in ~~the a~~ recycling container at the collection point as defined in section 94-1 and in the same manner as provided in section 94-47(c) for solid waste collection on the designated collection days.
- (g) Any recycling receptacle or container used for the collection or storage of recyclable materials failing to meet the requirements of this chapter shall be tagged by the collector. The tag shall clearly identify the manner in which the container fails to meet the specifications of a recycling receptacle. If the customer does not remove the improper receptacle after it has been tagged twice, on two separate collection days, the collector shall have the right to refuse to service that receptacle.

SECTION 15. Sec. 94-118. Ownership of recyclable materials, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-118. Ownership of recyclable materials.

- (a) Recyclable materials placed at the designated collection point shall remain in the ownership of the individual placing recyclable materials at the ~~curb or~~ designated collection point, until the recyclable materials are picked up by the recyclable materials collector.
- (b) Once the recyclable materials are picked up by the recyclable materials collector, the recyclable materials become the property of the board of county commissioners.
- (c) No individual, other than an authorized officer, employee or agent of the county, or a person authorized to collect recyclable materials by the board of county commissioners, shall tamper or meddle with any recycling container or its contents, or remove the recycling container, or engage in scavenging of its contents, from the location where the container has been placed by the customer.

SECTION 16. Sec. 94-119. Maintenance of property, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-119. Maintenance of property.

(a) *Purpose and intent.* It is hereby found that flies, mosquitoes, other harmful insects, vermin, blighted conditions, noxious odors, unsanitary conditions, conditions that adversely affect and impair the economic welfare of adjacent property, or create fire hazards, environmental hazards, potential hurricane hazards, and other such conditions caused by litter, trash, junk, and/or debris that pose a safety, health, and welfare concern for the citizens of the county as determined by a code officer given reasonable normal perception to be a public nuisance. Abatement of such conditions is necessary and hereby found and declared to be a public purpose.

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

Improper outdoor storage means the excessive accumulation of material(s) or item(s) defined as litter, trash, junk, or debris that are stored or placed outside unless such outdoor storage is on properties specifically zoned or permitted to store, accumulate or dispose of such items such as junk yards, automobile wrecking yards, metal salvage yards, or solid waste management facilities.

Litter, trash, junk, or debris for the purposes of this section expand upon the definition of "litter" as stated in section 94-1 to assist code enforcement in the determination of public nuisances and maintenance of property issues. Additional examples may include: dilapidated furniture; yard ~~trash~~ waste, land clearing debris, dilapidated, derelict or inoperable trailer(s), motor vehicle part(s), inoperable aircraft(s), inoperable farm machinery or equipment, any broken or inoperable abandoned or discarded items, solid waste, or hazardous material.

Outside or outdoor means all areas not within a completely enclosed building. Enclosed buildings do not include tents or screened areas and do not include carports, pole barns, awnings, lean-tos, or other such structures where one or more sides is open to the outside or outdoors.

(c) *Requirement to maintain property.*

- (1) "Improper outdoor storage" of litter, trash, junk, or debris on any lot, tract, or parcel of land, either improved or unimproved, is hereby declared to be a public nuisance and is prohibited, unless such storage is exempt as determined by this article. Improper outdoor storage is prohibited in vacant areas, sidewalks, grass strips and contiguous alleys and curbs.
- (2) It shall be the duty of the ~~record~~-property owner of record, lessees, tenants and occupants to maintain their property in a litter free condition and to eliminate all litter, trash, junk or debris that is improperly stored outside or outdoors.
- (3) Accumulation or storage of litter, trash, junk, or debris on property zoned and permitted for junk yards, automobile wrecking yards, or other permitted zoning classifications are exempt from the provisions of this section.
- (4) Containment of litter. All commercial establishments shall store their solid waste in a controlled manner so as to eliminate wind-driven litter in and about their property. The owner or occupant of any commercial establishment shall provide approved litter receptacles adequate to contain all litter and other loose solid waste, where the potential of litter generation exists, such as loading or unloading areas, parking lots or other areas used by the public.

SECTION 17. Sec. 94-197. Disposal Prohibitions, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-197. Disposal prohibitions.

- (a) No person shall place, allow to be placed or cause to be placed in the county's solid waste management facilities or any solid waste receptacle or commercial containers set out for regular collection by the collector, or at any solid waste collection point, or in any other place where it might reasonably be expected to be transported to the county's solid waste management facilities the following types of prohibited solid waste:
- (1) Wearing apparel, bedding or other waste from homes or other places where highly infectious or contagious diseases have been present as determined by the health officer, except where removal and disposal of such materials is performed under the supervision and direction of the health officer.
 - (2) Razor blades, metal binding straps, broken glass and other like materials which may cause personal injury to employees of the collector or the board unless wrapped, rendered harmless or identified as injurious materials.
 - (3) Hazardous waste.
 - (4) Improperly treated biomedical waste.
 - (5) Used oil or lead acid batteries except that these items may be delivered separately to the county's solid waste management facilities or a permitted solid waste management facility for recycling purposes.
 - (6) Sharps, including Hypodermic needles and lancets and other like devices used in the self injection or injection by others for the treatment or control of an illness, such as diabetes or allergies. Except that these items may be delivered separately by residents to the county's designated homeuser sharps collection sites in appropriate sharps containers for proper removal and disposal by a licensed biomedical waste transporter.
 - (7) Mercury containing devices or device components that contain mercury.
 - (8) Noncontainerized Liquid waste.
 - (9) Containers holding liquids, unless the container is a small container similar in size to that normally found in household waste and the waste is household waste.
 - (10) Containers greater than 20 gallons in capacity unless the ends have been removed or cut open, or they have a series of punctures on the top, bottom, and all sides to ensure the container is empty and free of residue. The empty container or tank shall be compacted to its smallest practical volume for disposal.
 - (11) Any wastes prohibited by state or federal law from disposal in the County's solid waste management facilities.
- (b) The director shall have the authority to inspect the waste being deposited in a solid waste receptacle ~~or commercial container~~ or at the county's solid waste management facilities by any person at any time to determine whether such waste contains hazardous wastes or any improperly treated biomedical wastes or other prohibited waste, and to take whatever action he deems necessary to ensure that the customer ceases the placement of such waste into the solid waste disposal system.
- (c) The disposal of hazardous waste, any improperly treated biomedical waste, or sharps on public or private property within the county, except as provided for by federal, state and local regulations, is prohibited.
- (d) The disposal of used motor oil or lead-acid batteries on any public or private property within the county, except as provided for by federal or state regulations is prohibited.

SECTION 18. The title of Article IV, FEES, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

ARTICLE IV. SPECIAL ASSESSMENTS, SERVICE FEES AND IMPACT FEES

SECTION 19. The title of Article IV, Division 2. SPECIAL ASSESSMENTS, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

DIVISION 2. SPECIAL ASSESSMENTS AND SERVICE FEES

SECTION 20. Sec. 94-232. Determination of annual special assessments, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-232. Determination of annual special assessments and service fees.

- (a) *Annual collection and recycling program special assessment.* There is hereby imposed an annual collection and recycling program special assessment on ~~(1)~~ all residential improved real property within the solid waste collection and recycling program municipal service benefit unit for (1) the curbside collection of solid waste and recyclable materials, other than construction and demolition debris, land clearing debris and prohibited waste, generated on each parcel of residential improved real property; and ~~(2) on all improved property within the benefit unit for the~~ implementation of the solid waste recycling program during the ensuing county fiscal year.
- (b) *Annual disposal special assessment.* There is hereby imposed an annual disposal special assessment on all ~~residential and commercial~~ improved real property within the solid waste disposal municipal service benefit unit both the incorporated and unincorporated areas of the county. The annual disposal special assessment shall be for the disposal of all solid waste generated on each parcel of improved real property during the ensuing county fiscal year.
- (c) Service fees. Any improved property that is exempt from taxation or from the imposition of special assessments, and/or any property that does not receive a property tax bill, but receives collection, recycling and/or disposal services, shall pay for such services annually as invoiced by the director.

SECTION 21. Sec. 94-233. Public hearing; notice, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-233. Public hearing; notice.

- (a) On or before September 15 of each year, the board of county commissioners shall hold a public hearing to adopt:
 - (1) A budget for the operation and maintenance of the solid waste management facilities and mandatory collection and recycling programs for the ensuing county fiscal year, including funds for the payment of outstanding and anticipated indebtedness, including all reserves necessary in connection with such financing, for the providing of contributions into such reserves as deemed necessary for future capital and land acquisitions and renewal and replacement of existing facilities, for the enforcement and administration of the billing and collection of the special assessments and service fees, provided for under the provisions of this article, including necessary reserves for anticipated delinquent or uncollectible special assessments.

service fees and charges and for the payment of the current operation and maintenance of such facilities and programs.

- (2) A rate resolution incorporating a schedule of the annual collection and recycling program special assessments and service fees to be imposed upon the owners of all residential improved real property in the applicable benefit unit for the ~~curbside~~ collection of solid waste and ~~upon the owners of all improved real property in the benefit unit~~ for implementation of the recycling program. Such schedule should provide sufficient revenues to fund the ~~curbside~~ collection of solid waste and the recycling program within the benefit unit and shall include the rate of compensation the county will pay the collector for providing ~~curbside~~ solid waste and recyclable materials collection services to residential improved real property within the service areas, and the monthly rates, and charges ~~and special assessments~~ the collector may charge for providing collection services to nonresidential improved real property within the unincorporated area of the county and to residential improved real property within the unincorporated areas but not within the benefit unit or for additional services provided to residential properties, within the benefit unit, beyond the collection services provided for in the county's franchise agreement.
- (3) A rate resolution incorporating a schedule of the annual disposal special assessments and service fees to be imposed upon the owners of all improved real property in the ~~county~~applicable benefit unit for the disposal of solid waste. Such schedule shall provide sufficient revenues to fund the budget adopted for the operation and maintenance of the solid waste management facilities.
- (b) Notice of the public hearing shall be published in a newspaper of general circulation in the county at least twice, with the first publication being at least 20 days prior to the public hearing. The public hearing may be continued to a date certain without the necessity of further newspaper advertisement or public notice.

SECTION 22. ~~SubP~~paragraph (d) of 94-234, Preparation and certification of annual special assessment rolls to tax collector, Code of Ordinances of Brevard County, Florida, is hereby added to read as follows:

Sec. 94-234. Preparation and certification of annual special assessment rolls to tax collector.

- (d) If the special assessments are increased or decreased from that imposed in the prior year, or if any special assessment is added, the procedures required by state law for the establishment and collection of a new non-ad valorem special assessments, including a public hearing, if required, shall be followed. Compliance with the requirements of state law shall be deemed compliance with the terms of this article in the event of any variance in procedures established by state law and procedures established by this article.

SECTION 23. Sec. 94.235. Method of collection of annual special assessments, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-235. Method of collection of annual special assessments and service fees.

- (a) Annual special assessments shall be collected and enforced in the same manner that ad valorem taxes are collected, including but not limited to provisions relating to discount for early payment, prepayment by installment method, penalty for delinquent payment, and issuance of tax certificates and tax deeds for nonpayment as provided for in F.S. § 197.3631, as amended. A tax certificate may not be sold on, nor any lien created in, property owned by any governmental agency.
- (a)(b) Any owner of improved real property that is tax exempt, or exempt from special assessments, and/or does not receive a property tax bill, but receives collection, recycling and/or disposal services will be manually invoiced by the director in November of each year for the entire annual amount of the service fees for solid waste collection.

recycling and disposal services received. These fees shall be calculated in the same manner as assessments, as established in the rate resolution.

SECTION 24. Sec. 94-236. Special assessments prior to initiation of first full year annual special assessments; payment of prorated special assessments; discharge of lien, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-236. Special assessments and service fees prior to initiation of first full year annual special assessments and service fees; payment of prorated special assessments and service fees; discharge of lien.

- (a) Prorated special assessments and service fees shall be imposed against, and paid by the owners of all applicable improved real property for each remaining month of that fiscal year, beginning with the first full month the real property becomes improved real property, until October 1 of that fiscal year. The prorated special assessments and service fees shall be equal to one-twelfth of the annual special assessments or service fees imposed under the applicable rate resolutions, multiplied by the number of months remaining in the year prior to October 1 of that fiscal year.
- (b) The prorated special assessments and service fees prior to initiation of first full year annual special assessments or service fees shall be billed by the board of county commissioners or its authorized representative.
- (c) Prorated special assessments and invoiced service fees shall be due and payable when issued, and payment thereof shall be the obligation of the owners of the real property, regardless of occupancy or previous ownership. Failure of the owner to receive any such bill shall not relieve the obligation for payment of the bill.
- (d) Prorated special assessments and service fees shall become delinquent if not paid in full within 30 days after the billing date.
- (e) All prorated special assessments and service fees which become delinquent shall constitute, and are hereby imposed as, liens against the applicable improved real property against which the prorated assessment and service fees have been imposed. Until fully paid and discharged, or waived by law, such prorated special assessment and service fees shall remain a lien equal in rank and dignity with the lien of county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to, or against the real property involved.
- (f) Such prorated special assessment and service fees liens may be recorded in the public records of the county by the board of county commissioners or its authorized representative, at any time after the assessment is created, and may be enforced by the board before, or subsequent to such recording, in any manner provided by law.
- (g) Unpaid prorated assessments and service fees shall remain and constitute liens against the improved real property involved until fully paid and discharged or waived by law.
- (h) The initiation of the annual special assessments and service fees against the owners of the applicable improved real property shall not extinguish the prior prorated assessment liens, nor relieve the owner from the owner's obligation thereunder.
- (i) All outstanding prorated special assessment and service fee liens may be discharged and satisfied by payment to the board or its authorized representative the aggregate amount due for such outstanding prorated special assessments and service fees, together with accrued collection fees, applicable interest or other additional amount specified by law for penalties and recording costs. When any such lien or liens have been fully paid or discharged, the director shall properly cause evidence of the satisfaction and discharge of such lien and record such satisfaction and discharge in public records of the county. Such lien or liens shall not be assigned by the county to any person.
- (j) For those properties for which liens cannot be placed, collection, recycling, and/or disposal services shall be discontinued, unless otherwise directed by the board of county commissioners.

SECTION 25. Sec. 94-237. Separately prepared annual special assessment notices, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-237. Separately prepared annual special assessment notices and service fee invoices.

Nothing contained in this division shall be construed or interpreted to preclude the board of county commissioners or its authorized representative from submitting, within its discretion, separately prepared notices of the annual special assessments and invoices for service fees imposed on certain improved real properties to the owners of such properties, if in the opinion of the board or its authorized representative such procedure will facilitate the billing and collection of such annual special assessments and service fees.

SECTION 26. Sec. 94-238. Correction of errors and omissions; petition to board, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-238. Correction of errors and omissions; petition to board.

- (a) No act of omission or commission on the part of the property appraiser, tax collector, board of county commissioners, director or their deputies or employees shall operate to defeat the payment of the annual special assessments and service fees and prorated special assessments and prorated service fees imposed by the board of county commissioners under the provisions of this division. However, any acts of omission or commission may be corrected at any time by the officers or party responsible, and when so corrected they shall be construed valid ab initio and shall in no way affect any process by law for the enforcement of the annual special assessments and service fees or prorated special assessments and prorated service fees imposed under the provisions of this division.
- (b) The board of county commissioners or its authorized representative shall have the authority, at any time, upon its own initiative or in response to a petition from any affected owner of improved real property, to correct any error of omission or commission in the adoption of any annual special assessment roll or in the implementation of this division, including, but not limited to, an error in including any real property within the scope of this article, any error in the calculation of the annual special assessment and service fees imposed against any parcel of improved real property, and any error in the classification of any improved real property based upon the classifications established in the rate resolution.
- (c) Any owner of real property may petition the board of county commissioners or its authorized representative to correct any asserted error of omission or commission in relation to their property in the adoption of the annual special assessment rolls, or any addendum to such rolls, or in the implementation of this division, within six months of the date of mailing of the final notice of ad valorem taxes and non-ad-valorem assessments or invoice for service fees for the current year. Such petition shall be initiated by filing with the director a written petition containing the name of the owner, a legal description of the real property affected, tax account number, a summary description of the asserted error and the relief requested of the board. Such petition shall be considered by the board at any regular or special meeting, with notice being provided to the petitioner.

SECTION 27. Sec. 94-239. Correction of errors and omissions; petition to board, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-239. Failure to include real property on annual special assessment rolls.

When it shall appear that an annual special assessment might have been imposed under the provisions of this article against any applicable parcel of improved real property, but such parcel of improved real property was omitted from the current annual special assessment roll, the board of county commissioners may adjust and impose such applicable annual special assessment until ~~December~~March 31 for the current fiscal year.

SECTION 28. Sec. 94-240. Annual special assessment to governmental agencies, county agencies and leasehold interest in improved real property leased to or by a governmental agency, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-240. Annual special assessment or service fee to governmental agencies, county agencies and leasehold interest in improved real property leased to or by a governmental agency.

- (a) All governmental agencies owning improved real property within ~~the a~~ benefit unit shall pay the applicable annual special assessments or service fees imposed under the provisions of this division under the classification specified in the rate resolution adopted under the provisions of section 94-233, except as otherwise provided in this article, or otherwise provided by law.
- (b) The provisions of this division, including the annual special assessments and service fees imposed by the board, shall be fully applicable to the owner of any improved real property leased to or by a governmental agency. Non payment of annual special assessments and service fees on all properties owned by a governmental agency shall result in discontinuation of collection and/or disposal services for that property at the county's solid waste management facilities. Restoration of service shall not occur until such assessments and service fees are fully paid, together with accrued collection fees, applicable interest, or other additional amount specified by law.
- (c) All county agencies are hereby required to use the procedure established by this chapter for the collection and disposal of all solid waste from improved real property and the recycling program and each such county agency or county department shall pay the annual special assessment applicable to it under the applicable classifications specified in the rate resolutions s adopted under the provisions of section 94-232, unless specifically exempted by the board.

SECTION 29. Sec. 94-241. Exemptions from annual collection and recycling program special assessments; criteria, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-241. Exemptions from annual collection and recycling program special assessments and service fees; criteria.

- (a) *Residential improved real property within benefit unit.* Exemptions from the annual collection and recycling program special assessments or service fees shall be granted on improved real property within the applicable benefit unit only if the following conditions apply:
 - (1) The property is not adjacent to a street accessible to a standard solid waste or recyclable materials collection vehicle.

- (2) The owner can demonstrate to the satisfaction of the director that a proper, sanitary and effective method of collecting and transporting solid waste generated on the owner's property is being utilized, and the owner has the equipment and facilities to carry out the proposal.
 - (3) The owner has made an application for exemption to the director in accordance with the provisions of section 94-242
- (b) *Agricultural property within benefit unit.* Exemptions from the annual collection and recyclable materials special assessments and service fees shall be granted on real property within the applicable benefit unit only if the following conditions apply:
- (1) The property is classified by the property appraiser as cropland, grazing land or groves with residence.
 - (2) Property is not adjacent to a street accessible to a standard solid waste or recyclable materials collection vehicle.
 - (3) The owner can demonstrate to the satisfaction of the director that a proper, sanitary and effective method of collecting and transporting solid waste generated on the owner's property is being utilized, and the owner has the equipment and facilities to carry out the proposal.
 - (4) The owner has made application for an exemption to the director in accordance with the provisions of section 94-242

~~(c) *Residential and nonresidential improved properties not within benefit unit.* Residential and nonresidential improved properties not within the applicable benefit unit shall be exempted from the annual collection and recycling program special assessments.~~

SECTION 30. Sec. 94-242, Exemption application; filing date; review; denial; appeal; revocation, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-242. Exemption application; filing date; review; denial; appeal; revocation.

- (a) *Exemption application.* The owner of any parcel of improved residential real property within the applicable benefit unit desiring an exemption from the annual collection and recycling program special assessments may make application for such exemption with the director. The board of county commissioners may establish, by resolution, a filing fee, which fee shall accompany the application. The application shall be made on forms provided by the director and shall provide, at a minimum, the following information:
- (1) The name of the applicant.
 - (2) The legal description of the property for which the exemption is sought.
 - (3) The applicable exemption criteria of section 94-241
 - (4) The reason the exemption is sought.
 - (5) The applicant of the property will provide certification for compliance with the board's prohibition of burying or burning of solid waste on private property, unless specifically exempt. In the absence of a specific exemption, the applicant or owner of the property will transport all solid waste generated on the property to one of the county's solid waste management facilities.
- (b) *Filing date.* The application should be filed with the director prior to August 31 for the following fiscal year in order to obtain an exemption for that year. Applications received after August 31 shall not be approved.
- (c) *Application review.* The director shall review the application. If the application otherwise meets the criteria set out in section 94-241, the director shall exempt the property upon receipt of written certification that the owner has

demonstrated a proper, sanitary and effective method of removing and collecting the solid waste generated on the property.

Upon issuance of an exemption for the applicable improved real property within the benefit unit, the director shall cause the removal of such property from the applicable assessment roll.

~~No~~ A person receiving an exemption shall collect, remove and dispose of the solid waste generated on the applicable property in accordance with the requirements of section 94-166(a).

- (d) *Denial.* The director shall give written notice to the owner when it has been determined that the application does not meet the criteria set out in this section, and such notice shall include the availability of an appeal process.
- (e) *Appeal process.* The board of county commissioners shall hereby authorize a solid waste adjustment review committee that will:
 - (1) Establish an appeal process for persons who have been denied approval of their application for exemption from mandatory collection and recycling program services.
 - (2) Have a membership comprised of three appropriate department or division directors appointed by the county manager.
 - (3) Meet annually, as necessary, to hear appeals prior to the annual solid waste collection and recycling program special assessment notice or service fee invoice issued in November of each year.
 - (4) Provide a written notice to the owner and the director of its final decision concerning the approval or denial of the application for exemption.
- (f) *Revocation of exemption.* The director shall revoke an exemption and direct the collector to reinstate curbside solid waste or recyclable materials collection service to a parcel of improved real property upon written certification that solid waste or recyclable materials are not being removed and collected from the property in the proper, sanitary and effective manner described in the application, or by an alternate method approved by the director.

SECTION 31. Sec. 94-244. Applicability of special assessments to tax-exempt improved real property, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-244. Applicability of special assessments and service fees to tax-exempt improved real property.

The exemption of property from taxation or from special assessments under state law shall not relieve the owner of any improved real property in the county from the provisions of this division or from the imposition by the board of county commissioners of the annual special assessments-service fees applicable to such improved real property as specified in the rate resolutions adopted under the provisions of this division. Any exempted improved property that does not receive a property tax bill shall be invoiced manually for annual service fees.

SECTION 32. Sec. 94-245. Vacancy adjustment for improved real property from annual special assessments; criteria, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-245. Vacancy adjustment for improved real property from annual special assessments and service fees; criteria.

An owner of improved real property shall be entitled to an adjustment to the applicable annual special assessments or service fees assessed against such improved real property provided:

- (1) The property was vacant continuously and uninterrupted for an entire six calendar months during the period from January 1 of the preceding fiscal year or to July 31 of the current calendar year.

- (2) The owner files a petition with the director for a vacancy adjustment in accordance with the provisions of [section 94-246](#)
- (3) The owner provides substantial evidence that the improved real property that is the subject of the application was vacant as set out in subsection (1) of this section.

SECTION 33. Sec. 94-246. Vacancy adjustment petition; filing date; review; denial; appeal, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-246. Vacancy adjustment petition; filing date; review; denial; appeal.

- (a) *Vacancy petition.* The owner of any parcel of improved real property within the county desiring a vacancy adjustment to the annual special assessments or service fees may file a petition for such adjustment with the director. The board of county commissioners may establish, by resolution, a filing fee which fee shall accompany such petition. The petition shall be filed on forms provided by the director and shall provide, at a minimum, the following information:
 - (1) Name of the owner.
 - (2) Legal description of the improved real property for which the vacancy adjustment is sought.
 - (3) Street address of the property.
 - (4) Time period during which the property was vacant.
 - (5) Last use of the property prior to becoming vacant.
 - (6) Competent evidence that substantiates the vacancy ~~as set out in~~ described in section 94-245
- (b) *Filing date.* The petition should be filed with the director prior to ~~October 1~~ August 31 ~~for the following fiscal of the current~~ year.
- (c) *Petition review.* The director shall review the petition. If the petition meets the criteria set out in [section 94-245](#), the director shall approve such vacancy adjustment upon written certification from the owner that substantiates the vacancy.

Upon determination that the owner of such improved real property is entitled to a vacancy adjustment, the director shall cause such improved real property to be assessed for the next fiscal year one-half the applicable annual special assessments or service fee for the residential improved real property or a prorated amount of annual disposal ~~and recycling program~~ special assessment ofr service fee for commercial improved real property according to the applicable classification as adopted in the rate resolution, but in no event, if the parcel was assessed above the minimum, will the adjustments be less than the minimum annual commercial solid waste disposal ~~and recycling program~~ assessments. ~~If the parcel was originally assessed at the minimum, then the adjustments will be one-half the minimum annual commercial solid waste disposal and recycling program assessments.~~

Such vacancy adjustment shall be effective for only one fiscal year and the owner of improved real property shall have the burden of filing a new written petition with supporting evidence by August 31 each year prior ~~to October 1~~ prior to the fiscal year in which the annual special assessment or service fee is to be imposed.

Failure of any owner of improved property to file a written petition ~~during prior by August 31 the fiscal year~~ shall result in the loss by such owner of the privileges of this section and such improved real property shall be assessed the applicable annual special assessment or service fee against such property without any adjustment for vacancy.

- (d) *Denial of petition.* The director shall give written notice to the owner of such improved real property when it has been determined that the petition does not meet the criteria set out in [section 94-245](#), and such notice shall include the availability of an appeal process.

- (e) *Appeal process.* If the petitioner desires to appeal the denial ~~the~~ The board of county commissioners shall authorize a solid waste adjustment review committee that will:
- (1) Establish an appeal process for persons that have been denied approval of their petition for vacancy adjustment from mandatory collection, disposal and recycling program services.
 - (2) Have a membership comprised of three appropriate department or division directors appointed by the county manager.
 - (3) Meet at least annually, as necessary, to hear appeals to the annual collection, disposal and recycling program special assessment notices issued in November of each year.
 - (4) Provide a written notice to the owner and the director of its final decision concerning the approval or denial of the petition for vacancy adjustment to the annual special assessments or service fees.

SECTION 34. Sec. 94-258. Imposition of solid waste impact fee, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-258. Imposition of solid waste impact fee.

- (a) A solid waste impact fee, incorporated in the rate resolution adopted under section 94-259, shall be imposed against each parcel of improved real property regardless of occupancy or previous ownership at one of the following times:
- ~~(1) When when~~ an application for a building permit is made for an improvement on the property.
 - ~~(2) During construction of an improvement on the property.~~
 - ~~(3) Prior to issuance of a certificate of occupancy on the property.~~
 - ~~(4) Once a certificate of occupancy has been issued.~~
- (b) ~~A solid waste impact fee shall be imposed against improved real property which commences to use the county's solid waste management facilities for the first time after October 1, 1988.~~
- ~~(c)~~ The applicable solid waste impact fee for such parcel shall be paid by the owner of the improved real property, or the owner of the applicable real property which commences to initially use or increase use of the county's solid waste management facilities.

SECTION 35. Sec. 94-260. Payment of impact fee, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-260. Payment of impact fee.

- (a) The solid waste impact fee shall be billed by the board of county commissioners or its authorized representative.
- (b) Impact fees shall be due and payable when the building permit is issued, and payment thereof shall be the obligation of the owner of record of the property for payment of said bill.
- (c) All impact fees collected shall be properly identified as solid waste impact fees, and promptly transferred for deposit in the solid waste impact fee trust fund, to be held in an account as determined in section 94-257 and used solely for the purposes specified in this division.
- (d) Impact fees shall become delinquent if not paid in full within 30 days of the billing date. Failure of the owner to receive any such bill shall not relieve the obligation for payment of the bill. The obligation to pay the impact fee shall run with the property regardless of ownership.

- (e) All impact fees which become delinquent shall constitute, and are hereby imposed as liens against the real property against which the impact fees have been imposed. Until fully paid and discharged, or waived by law, such impacts shall remain a lien equal in rank and dignity with the lien of county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to, or against the real property involved.
- (f) The solid waste impact fee liens may be recorded in the public records of the county, by the board of county commissioners or its authorized representative, at any time after the lien is created, and may be enforced by the board before or subsequent to such recording, in any manner provided by law.
- (g) Unpaid liens shall remain and constitute liens against the real property involved until fully paid and discharged, or waived by law.
- (h) All outstanding impact fee liens may be discharged and satisfied by payment to the board or its authorized representative the aggregate amount due for such outstanding impact fees, together with accrued collection fees, applicable interest or other additional amount specified by law for penalties and recording costs. When any such lien or liens have been fully paid or discharged, the director shall properly cause evidence of the satisfaction and discharge in public records of the county. Such lien or liens shall not be assigned by the county to any person.
- (i) Additionally, the solid waste impact fee may, where interlocal agreements between the county and the local government entity exist, be collected by designated local government entities at the time, place and from the person who seeks to develop land by applying for a building permit, or is issued a certificate of occupancy.

SECTION 36. Sec. 94-263. Exemptions, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-263. Exemptions.

- (a) The following shall be exempted from payment of the solid waste impact fee:
 - (1) Expansion of an existing building or structure where no additional units are created, and where the resulting solid waste generated will not exceed the amount of solid waste generated from the building prior to its expansion.
 - (2) Changes in the use of an existing non-residential building or structure provided there is no expansion of the existing building or structure.
 - (3) The construction of accessory buildings or structures which will not produce or generate solid waste over and above that produced by the principal building or structure.
 - (4) The replacement of a residential building or structure with a new residential building or structure of the same type, provided that no additional solid waste will be produced or generated over and above that produced or generated by the original residential building or structure.
 - (5) The replacement of a nonresidential building or structure with a new nonresidential building or structure of the same size and use, provided that no additional solid waste will be produced or generated over and above that produced by the original building or structure.
- (b) Any exemption must be claimed by the feepayerfee payer within 30 days after the issuance of the building permit and issuance of the solid waste impact fee bill. The request shall be made in writing to the director. Any exemption not so claimed shall be deemed waived by the feepayerfee payer.

SECTION 37. Sec. 94-276. Public hearing to determine amount, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-276. Public hearing to determine amounts.

- (a) The board shall hold a public hearing to adopt a rate resolution establishing a schedule of special rates for solid waste handling and disposal fees and deposits for solid waste not included in the annual disposal special assessment or service fees.
- (b) Notice of the public hearing shall be published in a newspaper of general circulation in the county at least twice, with the first publication being at least 20 days prior to the public hearing. The public hearing may be continued to a date certain without the necessity of further newspaper advertisement or public notice.
- (c) Any person desiring to dispose of solid waste not included in the annual disposal special assessment or service fee calculation at the county's solid waste management facilities shall be required to:
 - 1. Pay such deposits as established by the board; and
 - 2. Pay such special rates as established by board for the disposal of such solid waste.

SECTION 38. Sec. 94-277. Landfill gate accounts, payment of deposits, special rates; delinquency; collection; exemptions, Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 94-277. Landfill gate accounts, payment of deposits, special rates; delinquency; collection; exemptions.

- (a) Any commercial entity desiring to dispose of solid waste at the county's solid waste management facilities shall be required to establish a landfill gate account with the department.
- (b) The commercial entity shall make a security deposit to the department. The security deposit shall be in the amount that is equal to two months of estimated disposal fees based on estimated tonnage and type of waste to be brought to the landfill or the minimum security deposit established by, and based on, the special rate resolution adopted by the board. Security deposits may be in the form of cash, surety bond or letter of credit.
- (c) The board or authorized representative shall bill individuals for the handling and disposal of solid waste not included in the annual disposal special assessment in accordance with the special rates resolution adopted by the board.
- (d) Deposits for disposal and bills for special rates for solid waste handling and disposal are due when rendered and are the obligations of persons disposing of such solid waste.
- (e) If the full amount due is not paid within 30 days of the billing date, the bill becomes delinquent. If the bill becomes delinquent the board or authorized representative shall officially notify the individual of the delinquency. If the bill is not paid within ten days of official notice thereof, solid waste disposal services provided by the board may be discontinued.
- (f) Delinquent bills shall be enforced by the board in any manner provided by law.
- (g) Delinquent bills may be discharged and satisfied by payment to the board or its authorized representative the aggregate amount due, together with any security deposit used to pay an account, accrued interest and collection fees, or other additional amount specified by law for penalties and recording costs. Interest shall accrue in the same manner as that provided in F.S. Ch. 197.172.
- (h) Governmental agencies, authorized collectors, and customers in good standing on October 1, 1990 and remaining in good standing since that date as determined by the director, are exempt from the requirement to post a security deposit prior to disposal of solid waste at the county's solid waste management facilities.

SECTION 39. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 40. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 41. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 42. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing, as required by law.

DONE, ORDAINED AND ADOPTED in regular session this ____ day of _____, 2014.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

By: _____
Mary Bolin Lewis, Chairman
As approved by the Board on _____

Reviewed for legal content by: _____
Assistant County Attorney

| |
|--------------|
| Meeting Date |
| 01/28/14 |



| AGENDA | |
|----------|----------------|
| Section | Public Hearing |
| Item No. | J.E |

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

| | |
|--------------|--|
| SUBJECT: | Requesting to amend Resolution 13-139, Solid Waste Special Assessment Rates, Fees, and Charges for non-residential improved real property and improved property not within the benefit unit, the opportunity to choose size of carts for their business. |
| DEPT/OFFICE: | Solid Waste Management Department |

Requested Action:

It is recommended that the Board of County Commissioners adopt: 1) Amend Resolution 13-139 Solid Waste Special Assessments Rates, Fees, and Charges for non-residential improved real property and improved property not with the benefit unit and the schedule of compensation rates to be paid collectors for curbside collection provided to all improved residential real property with the Solid Waste collection and recycling benefit unit for the County's fiscal year beginning October 1, 2013.

Summary Explanation & Background:

This amendment follows Board direction provided on December 17, 2013, and is necessary to provide owners of non-residential improved real property within the benefit unit, and not within the benefit unit, the opportunity to use a smaller cart for their business.

This amendment also establishes the maximum price the collector can charge for the different sizes of carts.

Fiscal Impact:

There is no fiscal impact to the County as commercial customers contract directly with Waste Management of Florida, Inc. Commercial customers, that use Waste Management's cart services, will see a reduction in their monthly bills if they select a smaller cart as authorized in this Resolution.

Contact: Euripides Rodriguez, Director

Phone: 321-633-2042

Clerk to the Board instruction: Please sign and attest three (3) copies of the resolution and return two (2) originals to this Department.

Exhibits Attached: 3 Resolutions

Contract /Agreement (If attached): Reviewed by County Attorney Yes ☒ No ☐ PR ☒

County Manager

Deputy County Manager: Stockton Whitten

Department Director / Extension
Euripides Rodriguez/52042

Howard Tipton

Assistant County Manager: Mel Scott

AMENDMENT TO RESOLUTION NO. 13-139

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AMENDING THE SCHEDULE OF SPECIAL RATES AND CHARGES FOR NON-RESIDENTIAL IMPROVED REAL PROPERTY WITHIN THE UNINCORPORATED AREA, AND IMPROVED REAL PROPERTY NOT WITHIN THE BENEFIT UNIT, AND THE SCHEDULE OF COMPENSATION RATES TO BE PAID COLLECTORS FOR CURBSIDE COLLECTION PROVIDED TO ALL IMPROVED RESIDENTIAL REAL PROPERTY WITHIN THE SOLID WASTE COLLECTION AND RECYCLING BENEFIT UNIT FOR COUNTY FISCAL YEAR BEGINNING OCTOBER 1, 2013

WHEREAS, the Board of County Commissioners (Board) adopted Resolution 13-139 on August 23, 2013, incorporated herein by this reference, to establish, in part, the monthly fee for automated cart service for commercial collection; and

WHEREAS, the Board has negotiated additional automated cart service options and fees with the Collector for commercial collection and both parties agree to implement the revised fees retroactively as of October 1, 2013; and

WHEREAS, the public hearing required to consider adoption of this Resolution is scheduled for January 28, 2014, in the Brevard County Government Center, Commission Board Room, Building C, First Floor, 2725 Judge Fran Jamieson Way, Viera, Florida; and

WHEREAS, notice of said public hearing was published in the January 6, 2014 and January 20, 2014 issues of the FLORIDA TODAY Newspaper, a newspaper of general circulation in Brevard County, Florida.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

Section 1. SPECIAL RATES AND CHARGES. The Board of County Commissioners does hereby amend the Schedule of Rates for containers for all non-residential improved real property within the unincorporated area of Brevard County and rates for all residential improved real property within said unincorporated areas, but not within the "Benefit Unit". Resolution 13-139 is hereby amended to delete Section 1(c) "Collection Fee for Individual Containers" and replace it with the following:

(c) Monthly collection Fee for Individual Carts:

| | |
|------------------------------------|----------|
| (1) One 96 Gallon Cart | \$ 31.48 |
| (2) Each Additional 96 Gallon Cart | \$ 31.48 |
| (3) One 64 Gallon Cart | \$ 23.84 |
| (4) Each Additional 64 Gallon Cart | \$ 23.84 |
| (5) One 35 Gallon Cart | \$ 11.16 |
| (6) Each Additional 35 Gallon Cart | \$ 11.16 |

Section 2. All other terms of Resolution 13-139, not inconsistent with the provisions of this Resolution, shall remain in full force and effect.

Section 3. RATE RESOLUTION DECLARED. This Resolution and Resolution 13-139 constitute the Rate Resolution specified in Chapter 94, Article IV., Division 2, Code of Ordinances of Brevard, County, Florida, as amended.

Section 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this Resolution.

Section 5. EFFECTIVE DATE. This Resolution shall take effect retroactively as of October 1, 2013.

RESOLVED this 28th Day of January 2014.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

BY: _____
Scott Ellis, Clerk

BY: _____
Mary Bolin Lewis
Brevard County Commission
(As approved by the Board on January 28, 2014)



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