

ORDINANCE 25-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 94 OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, SPECIFICALLY AMENDING CHAPTER 94 SECTION 94-1 – DEFINITIONS, TO REPLACE OMITTED DEFINITIONS; AMENDING SECTION 94-4 - ENFORCEMENT; PENALTIES, TO REPLACE OMITTED PARAGRAPHS 3, 4, AND 5; AMENDING SECTION 94-47 - RESIDENTIAL SOLID WASTE RECEPTACLES, IMPROPER RECEPTACLES, COLLECTION POINT TO REPLACE OMITTED PARAGRAPH (C); AMENDING SECTION 94-76 – CONSTRUCTION, DEMOLITION, LANDCLEARING DEBRIS TO REPLACE OMITTED PARAGRAPHS (C) AND (D); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, under Chapter 403.706, Florida Statutes, Brevard County has the responsibility and authority to provide for the operation of a Solid Waste Management System to meet the disposal needs of all incorporated and unincorporated Brevard 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, in order for the County to provide efficient and equitable solid waste disposal services that provides for current and future needs of the residents of both incorporated and unincorporated areas of Brevard County it is necessary for the County to ensure all properties receiving solid waste service pay for such services through solid waste assessments, service fees, and gate charges; and

WHEREAS, certain sections of Chapter 94 – Solid Waste, Code of Ordinances of Brevard County, require amendments to include provisions omitted by Ordinance 24-12 to ensure an efficient and robust Solid Waste Management System that can expand to meet the growing needs of Brevard County.

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

Underline indicates additions.

~~Strikethrough indicates deletions.~~

SECTION 1. Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference. All provisions of Chapter 94 Code of Ordinances of Brevard County not amended herein shall remain in full force and effect.

SECTION 2. Section 94-1. – Definitions, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-1. Definitions.

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

Agricultural wastes means solid waste resulting from normal farming operations, the raising and slaughtering of animals and the processing of animal products, orchard and field crops which are stored, transported or disposed of as an unwanted waste material.

Air curtain incinerator means a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

Air curtain incinerator facility is a volume reduction plant which uses an air curtain incinerator to dispose of landclearing debris and untreated wood.

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 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, the billing for the collection of the solid waste and recyclable materials; and 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 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 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.

Annual special assessments means the annual collection and recycling program special assessment and the annual disposal special assessment.

Annual special assessment rolls means the annual collection and recycling program special assessment roll and the annual disposal special assessment roll.

Apartment 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.

Autoclave means a pressurized steam-heated vessel used for sterilization of biomedical waste to render it noninfectious.

Automated collection cart 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 the 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 the 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 F.S. ch. 470.

Biomedical waste (also referred to as biohazardous waste) means any solid or liquid waste which may present a threat of infection to humans including non-liquid tissue, body parts, blood, blood products, and body fluids from human and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. The following are also included:

- (1) Used, absorbent materials saturated with blood, blood products, body fluids, excretions or secretions contaminated with visible blood, and absorbent materials saturated with blood or blood products that have dried.

(2) Non-absorbent disposable devices which have been contaminated with blood, body fluids, or secretions or excretions visibly contaminated with blood, but have not been treated by an approved method.

Biomedical waste facility means a solid waste management facility which processes, treats, sterilizes, microwaves, incinerates or otherwise changes the character or composition of biomedical waste to render it noninfectious and harmless, and includes those facilities which consolidate, compact, shred, bale, transfer, store, or otherwise handle biomedical waste generated off-site.

Biomedical waste incinerator means a combustion apparatus, furnace or other device used for igniting, incinerating or burning biomedical waste to a temperature high enough and for a period long enough to ensure destruction of all pathogenic organisms and render such waste noninfectious and harmless.

Board or Board of County Commissioners means the governing board of Brevard County, Florida.

Building official means the director of the county's building division or his official designee.

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. Any type of solid waste not reasonably capable of being placed in an automated-solid waste 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) Commercial unit and multiple-family residences. Any type of solid waste not reasonably capable of being placed in a solid waste receptacle or any solid waste placed at a centralized location not in conformity with the size and type requirements specified above for a single-family residence.

Capital improvement includes solid waste disposal system land, buildings, site improvements, facilities, vehicles and equipment, but excludes maintenance and operation.

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, 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 waste, 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.

Clean wood means wood, including lumber, tree and shrub trunks, branches, and limbs, which are free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate, other preservatives or treatments.

Collection Contract means a contract between the Board of County Commissioners and a qualified person granting the right and duty to collect all solid waste or recyclable materials within a specified service area; the Contract shall set out the specific areas and terms of operation, as well as duties of the Collector.

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 means:

(1) *Single-family and individual multiple family residence.* A point within five feet from the curblineline 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) *Multiple-family residence and 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 Contract with the Board of County Commissioners.

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 Contract.

Commercial container means a receptacle for containing solid waste designed for mechanical pickup and provided by the Collector for use by the customer.

Commercial unit or establishments means any non-residential improved real property 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, 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.

Compactor boxes means any mechanical compacting container used primarily to compact commercial and residential solid waste.

Composting facility means a solid waste management facility where solid waste is processed using composting technology. Processing may include physically turning, windrowing, aeration or other mechanical handling of organic matter. Simple exposure of organic matter to the elements resulting in a natural decay, with little or no mechanical handling, is considered disposal and for the purpose of this chapter would not be considered a composting facility.

Condominium unit means any portion of a building or structure designed or constructed for and capable of use as a residence for one family, and such unit being owned or offered for sale under the condominium concept of ownership.

Construction and demolition debris means discarded materials generally considered not to be water soluble and nonhazardous in nature, including, but not limited to, steel, concrete, glass, brick, asphalt material, pipe, gypsum wall board and lumber from a construction or demolition project or renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; except as provided in F.S. § 403.707(13)(i), yard waste, and unpainted, nontreated wood scraps from sources other than construction or demolition projects; scrap from manufacturing facilities that is the type of material generally used in construction projects and that would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project, including debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities; and de minimus amounts of other nonhazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

County means both the incorporated and unincorporated areas of Brevard County, Florida.

County Manager means the chief executive officer of county government appointed by the Board of County Commissioners, Brevard County, Florida.

County's means owned by the Board of County Commissioners.

Cover means any device, equipment, tarpaulin, chain, rope, wire or line used on vehicles to prevent the contents, or any part of such vehicles' load, from sifting, blowing, leaking, falling or otherwise being discharged, disbursed, or escaping from such vehicles.

Customer means any person owning improved residential real property within that portion of the benefit unit that is within a Collector's service area, except for persons obtaining exemptions, and all other persons subscribing to solid waste or recyclable materials collection service provided by the Collector under the terms of a Collection Contract.

Department means the county's Solid Waste Management Department.

Director means the Director of the Solid Waste Management Department of Brevard County, appointed by the County Manager with the consent of the Board of County Commissioners, or duly authorized designee.

Disposal means the discharge, deposit, injection, dumping, burying, spilling, scattering, leaking, storing or placing of any solid waste into or upon any land or water so that such solid waste or any constituent thereof may enter other lands or be emitted into the air, discharged into any waters, including groundwaters, or otherwise enter the environment, except as specifically authorized by the Board of County Commissioners.

Dump means to throw, discard, place, deposit, dispose or bury any solid waste into or upon any land or water, except as specifically authorized by the Board of County Commissioners.

Enforcement officer means law enforcement officers, the health officer and any code enforcement officer duly authorized to enforce the laws, codes and ordinances of the county.

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.

Final cover means materials approved by the Florida Department of Environmental Protection used to cover solid waste disposal areas when disposal operations cease and shall consist of a minimum 24-inch-thick soil layer, the upper six inches of which shall be capable of supporting vegetation, and shall be graded and compacted as necessary to eliminate ponding, promote drainage and minimize erosion.

Fiscal year means the fiscal year applicable to the county government, such fiscal year beginning on October 1 of each year and ending on September 30 of the next year.

Florida Prompt Payment Act means F.S. ch. 218 (F.S. § 218.70 et seq.).

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

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

Governmental agencies means all state, federal or local agencies or units of government located within the County, including, but not limited to, the School Board of the County, all municipalities within the County, all Special Districts and Municipal Service Taxing Units with all or part of their boundaries within the County and any municipality or Special District or other unit of government whose boundaries are not within the County but which is the owner of improved real property within the County.

Hazardous waste means any solid waste identified by the Florida Department of Environmental Protection as a hazardous waste pursuant to F.A.C. ch. 62-730.

Hazardous waste management facility means any building, site, structure, or equipment at or by which hazardous waste, which is generated off-site, is transferred to, disposed of, stored, or treated and required to obtain an operating permit for a hazardous waste treatment, storage and disposal facility by the Florida Department of Environmental Protection (FDEP).

Health officer means the Director of the Brevard County Health Department or his/her official designee.

Hotel or motel means any building designated or used to provide lodging or boarding and lodging to the public for transients, tourists or persons of short residence in which there are six or more guestrooms, with limited or no kitchen facilities offered. The building must be open to the general traveling public, as opposed to the customary purpose and use of a boardinghouse or lodginghouse, apartment or multiple-family dwelling.

Improperly treated biomedical waste means biomedical wastes which have not been rendered noninfectious and harmless, and in which all pathogenic organisms have not been destroyed by either incineration or autoclaving, or other method approved by the state department of children and family services.

Improved real property means any real property located in either the incorporated or unincorporated areas of the County that generates, or is capable of generating, solid waste and that contains a building, structure or other improvements designed or constructed, or capable of use for, or is being used for human habitation, human activity or commercial enterprise. Real property becomes improved real property following construction completion and the initial issuance of a Certificate of Occupancy.

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

Landclearing debris means rocks, soils, tree remains, trees, large branches, stumps, root balls, palms, shrubs, and other vegetative matter which typically result from land clearing or land development operations, although not limited to those activities. This also includes large quantities of sod, gravel, coquina, sand, rock, soils, and/or other materials requiring special handling. Land clearing debris does not include vegetative matter from residential lawn maintenance or residential landscape maintenance when brought to a solid waste management facility by the Collector under the Collection Contract or personally by the property owner or tenant, or right-of-way or easement maintenance.

Landfill means a solid waste disposal facility, which is an area of land or an excavation where wastes are or have been placed for disposal for which a permit issued by the Florida Department of Environmental Protection is required. This term does not include:

(a) Land application sites where reclaimed water, effluents or wastewater residuals are applied to the land through spray irrigation, land spreading, or other methods;

(b) A surface impoundment for the treatment and disposal of stormwater or wastewater;
or

(c) An injection well into which fluids are injected, by gravity flow or under pressure.

Liquid waste means any waste material that is determined to contain free liquids as defined by Method 9095 (Paint Filter Liquids Test), as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Pub. No. SW-846).

Litter means any garbage, rubbish, trash, refuse, can, bottle, box, container, paper, tobacco product, tire, appliance, furniture; mechanical equipment or part, construction or demolition material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

Litter receptacle means a covered container of a capacity not less than ten gallons, constructed and placed for public use as a depository for litter.

Local governmental entity means a county or municipal government or any office, board, bureau, commission, department, branch, office, division or institution thereof, or any project supported by County or municipal funds.

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

Mulching facility means a facility where landclearing debris and yard waste is mechanically chipped or ground for landscaping material, landfill cover, fuel or other uses approved by the Director.

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.

Municipality means a political unit, such as a city or town, within the boundaries of the County, incorporated for local self-government pursuant to Statute 2 or 6, Article 8 of the State of Florida Constitution.

Non-ad valorem assessments means all annual collection and recycling program special assessments and annual disposal special assessments.

Off-site means not on the property where the solid waste is generated.

Omitted taxes means those taxes which have not been extended on the tax roll against a parcel of property after the property has been placed upon the list of lands available for taxes pursuant to F.S. § 197.502.

On-site means on the property where the solid waste is generated.

Owner means any person owning an interest in any real property located within the incorporated or unincorporated areas of the county.

Parkway means that portion of the street right-of-way paralleling any public thoroughfare between the curblin or paving line and adjacent property line.

Person means the United States or any agency or institution thereof; any state or any agency or institution thereof, or any municipality, political subdivision, public or private corporation, individual, partnership, association or other entity and includes any officer or governing or managing body of the state, the United States, any agency, any municipality, political subdivision, or public or private corporation.

Permitted means authorized by all applicable local, state and federal agencies to operate solid waste management facilities, and conduct solid waste management operations or activities.

Plastic bag means a polyethylene or other heavy duty plastic bag meeting the National Sanitation Foundation standards of 1.5 mils, not exceeding 32-gallon capacity, and which can be securely closed with a twist tie or knot.

Private property means any property owned by any person, other than public property, including, but not limited to, yards, grounds, driveways, entrances, passageways, parking areas, bodies of water, vacant land, or private recreational facilities.

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

Proof of origin means documentation of the location of generation of the waste to be disposed. For property owners or tenants bringing waste to the County solid waste management facilities, proof of origin shall consist of a valid driver's license or other valid form of ID showing the property address, and additional documentation showing ownership or tenancy. For commercial haulers, proof of origin shall consist of a work order or invoice showing the name, address, and contact information of the owner of the property where the waste was generated.

Property Appraiser means the property appraiser of the County.

Public property means any area that is owned or operated by a governmental entity or used by the public, including, but not limited to, highways, streets, alleys, parks, recreational areas, parking lots, sidewalks, medians, rights-of-way, lakes, rivers, streams, ponds, canals, ditches or other bodies of water.

Public street means any street, road or easement dedicated to and accepted by the Board of County Commissioners, built to the specifications for paved or unpaved roads adopted by the board, and maintained by the Board of County Commissioners.

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

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

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 recyclable materials collection service to residential single- and multiple-family units, recyclable materials shall include those materials as determined by the Director and described in the Collection Contract.

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.

Recycling facility means a facility where materials generated or produced off-site are processed and reused or returned to use in the form of a raw material in manufacturing and agriculture.

Recycling plan means that plan adopted by the Board of County Commissioners to meet the goals of the Solid Waste Management Act of 1988, as incorporated in F.S. Ch. 403 and amendments thereto.

Residential improved real property means all improved real property used for either a multifamily residence, or a single-family residence, including trailer parks, apartments, condominium units, cooperative units, townhouses, duplexes, triplexes, quadruplexes, and sixplexes.

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 cart.

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

Service area means the area served by a Collector set out in a Solid Waste & Recyclable Materials Collection Contract between the collector and the County.

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.

Sharps means objects capable of puncturing, lacerating or otherwise penetrating the skin. Examples include, but are not limited to, needles, intact or broken glass, and intact or broken hard plastic.

Single-family residence means any building or structure designed or constructed for and capable of use as a residence for one family regardless of the type of structure. Such term includes a mobile home or trailer erected on a parcel of property owned and offered for sale under the condominium concept of ownership or on a separate parcel of property not included within the definition of trailer park.

Sludge means any solid, semisolid or liquid generated from any wastewater treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.

Solid waste, as defined in F.A.C. rule 62-701.200, 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 Contract.

Solid waste disposal facility means any solid waste management facility which is the final resting place for solid waste including landfills, incineration facilities that produce ash from the process of incinerating municipal solid waste.

Solid waste disposal system means all facilities, equipment and services operated and maintained by or on behalf of the Board of County Commissioners for the collection, recycling, management, processing, incineration or disposal of solid waste.

Solid waste management facility means any solid waste disposal area, transfer station, materials recovery facility, or other facility which accepts solid waste generated off-site, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term includes, but is not limited to, air curtain incinerators, biomedical waste incinerators, composting facilities, hazardous waste facilities, material recovery facilities, mulching facilities, and landfills. The term does not include recovered materials processing facilities that meet the requirements of rule 62-701.220(2)(c), F.A.C., except the portion of such facilities, if any, that is used for the management of solid waste.

Solid waste receptacle means a container approved by the Director that is capable of being serviced mechanically by the collector's automated collection vehicle, and includes an automated solid waste collection cart, commercial container, or compactor box.

Special collection solid waste. See bulky waste.

Special magistrate means a person authorized to hold hearings and assess fines against violators of the county codes and ordinances. The term special magistrate includes the term special master.

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.

Tax certificate means the document issued when any special assessments collectible under this chapter become delinquent and such assessments are paid by a person who is not the property owner or acting as an agent of the property owner or when such assessments are not paid and the certificate is issued to the County in which the real property lies.

Tax Collector means the tax collector of the County.

Tax notice means the tax bill sent to taxpayers for payment of any special assessments collected pursuant to this chapter. The notice shall contain the title "Notice of Ad Valorem Taxes and Non-Ad-Valorem Assessments."

Tax rolls and assessment rolls means the rolls prepared by the property appraiser pursuant to F.S. Ch. 193, and certified pursuant to F.S. § 193.122.

Trailer park means an improved real property divided into spaces for the erection and maintenance of trailers or mobile homes.

Transfer station means a facility the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility. Operations at such facilities may include separation of incidental amounts of recyclable materials or unauthorized waste.

Trash means yard waste, construction and demolition debris or other debris such as paper, cardboard, cloth, glass, street sweepings, tires and other like matter.

Treatment means any process, including steam, chemicals, microwave shredding or incineration, which changes the character or composition of biomedical waste to render it noninfectious by disinfection or sterilization as approved by the Florida Department of Health, as described in section 64E-16.007, Florida Administrative Code.

Used oil means any oil which has been refined from crude oil or synthetic oil and, as a result of use, storage or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

Vacant or *vacancy* means the complete and total absence of any occupation or use of improved real property for human habitation or human activity or enterprise.

Vehicle means any device for the transportation of persons, passengers, goods, or equipment, regardless of its means of propulsion, and shall include, but not be limited to, motor vehicles, vessels, vans, recreational vehicles, trucks, boats, motorcycles, trains, buses, trailers and other means of conveyance.

Volume reduction means the incineration, pulverizing, compaction, shredding, baling, composting, or otherwise processing solid waste to reduce the volume.

Volume reduction plant means a solid waste management facility which incinerates, pulverizes, compacts, shreds, bales, composts, or otherwise accepts and processes solid waste for recycling or disposal.

White goods means any inoperative and discarded refrigerators, ranges, washers, water heaters, and other similar domestic and commercial appliances.

Yard waste means any vegetative matter generated from improved residential real property such as leaves, grass clippings, palm fronds, or small shrubbery cuttings resulting from the care of lawns or landscape maintenance and brought to the County solid waste management facility by the Collector under the Collection Contract or by the property owner or tenant. This may include tree trimmings or limited tree removal, if performed by the owner of the residence and must meet the preparation guidelines set forth in Section 94-49, as amended (set out for collection by the contracted Collector).

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

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 3. Section 94-4. – Enforcement; penalties, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-4. Enforcement; penalties.

The provisions of this chapter may be enforced by the Board of County Commissioners by any of the following methods which shall not be mutually exclusive:

(1) By the issuance of a citation pursuant to the provisions of F.S. Ch. 125 and 162, a person who wishes to contest a citation may do so in County court. Any person convicted of a violation pursuant to the exercise of citation authority is punishable by up to a \$500.00 fine, per violation, and payment of court fees and costs.

(2) Violations of this chapter may be prosecuted before the Brevard County Special Magistrate. Cases brought before the Special Magistrate shall proceed according to the rules set forth in chapter 2, article VI, division 2, Code of Ordinances of Brevard County, Florida. Violators shall be subject to the penalties imposed pursuant to F.S. Ch. 162, as amended from time to time. Violations brought before the Special Magistrate shall be treated as civil infractions with penalties not to exceed \$500.00 per violation.

(3) Violations of this chapter may be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished as provided in section 1-7, Code of Ordinances of Brevard County, Florida.

(4) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil fines or other administrative actions, including action pursuant to F.S. Ch. 162.

(5) In addition, and in accordance with the Florida Litter Law (F.S. § 403.413), any person who dumps litter in excess of 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste is guilty of a felony of the third degree punishable as provided in F.S. Ch. 775.

SECTION 4. Section 94-47. – Residential solid waste 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 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 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.

(5) Solid waste receptacles shall be kept 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.

(6) 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.

(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) 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 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 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 5. Section 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 as amended, in accordance with subsection 94-233(2). Collectors shall provide proof of origin of the debris at the scale house. 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 as defined in 94-1.

(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 and pay the fees and charges as limited by the Rate Resolution adopted by the Board of County Commissioners as amended, in accordance with subsection 94-233(2). Roll-off container service providers shall provide proof of origin of the debris at the scale house; 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. If brought in by a commercial hauler or from a commercial property, provide proof of origin and pay the fees and charges as limited by the Rate Resolution adopted by the Board of County Commissioners as amended, in accordance with subsection 94-233(2). If brought in by an owner or tenant of a residential property, provide proof of origin. 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 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 6. Conflicting Provisions. In the case of a direct conflict between any provisions 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 7. Severability. If any provisions 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 8. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made 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 other such appropriate word or phrase in order to accomplish such intentions.

SECTION 9. 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, ORDERED, AND ADOPTED in regular session this 12th day of August 2025.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

Rob Feltner, Chairman
As approved by the Board on August 12, 2025

Reviewed for legal form and content:



Justin E. Caron, Assistant County Attorney