

ORDINANCE 24-____

AN ORDINANCE OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 94 OF THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, SPECIFICALLY REVISING CHAPTER 94 – SOLID WASTE, ARTICLE I – IN GENERAL; REVISING SEC. 94-1 - DEFINITIONS TO UPDATE DEFINITIONS OF LANDCLEARING DEBRIS AND YARD WASTE AND ADD DEFINITION OF PROOF OF ORIGIN. REVISING ARTICLE II – SOLID WASTE COLLECTION AND RECYCLING; REVISING SEC. 94-49 – YARD WASTE COLLECTION TO ADD PAYING APPLICABLE FEES AND CHARGES AND REQUIRING PROOF OF ORIGIN OF WASTE; REVISING SEC. 94-76 – CONSTRUCTION, DEMOLITION, LANDCLEARING DEBRIS TO INCLUDE PAYING APPLICABLE FEES AND CHARGES AND REQUIRING PROOF OF ORIGIN OF DEBRIS; REVISING SEC. 94-91 – COLLECTION AGREEMENTS AND PERMITS TO USE THE TERM CONTRACTS IN PLACE OF AGREEMENTS AND SPECIFY SELECTION OF COLLECTION CONTRACTOR THROUGH SOLITICATION OF COMPETITIVE BIDS; REVISING SEC. 94-93 – ROLL-OFF COLLECTION SERVICE PERMIT APPLICATION, FEES, DURATION TO ADD REQUIRING PROOF OF A CURRENT BUSINESS TAX RECEIPT AND LIMITING PERMIT TERM TO ONE YEAR; REVISING SEC. 94-97 – GENERAL PERMIT CONDITIONS TO ADD UPDATED INSURANCE REQUIREMENTS AND REQUIRING PROOF OF ORIGIN OF DEBRIS. REVISING ARTICLE IV – SPECIAL ASSESSMENTS, SERVICE FEES, AND IMPACT FEES; REVISING 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 TO ADD THE OPTION OF INCLUDING PRORATED ASSESSMENT AMOUNT TO THE BUILDING PERMIT FEE IN LIEU OF INDIVIDUAL INVOICE; REVISING SEC. 94-242 – EXEMPTION APPLICATION; FILING DATE; REVIEW; DENIAL; APPEAL; REVOCATION TO AMEND EXEMPTION FILING DATE; REVISING SEC. 94-245 – VACANCY ADJUSTMENTS FOR IMPROVED REAL PROPERTY FROM ANNUAL ASSESSMENTS AND SERVICE FEES; CRITERIA TO AMEND VACANCY PERIOD; REVISING SEC. 94-246 – VACANCY ADJUSTMENT PETITION; FILING DATE; REVIEW; DENIAL; APPEAL TO AMEND FILING DATE; REVISING SEC. 94-277 – LANDFILL GATE ACCOUNTS, PAYMENT OF DEPOSITS, SPECIAL RATES; DELIQUENCY; COLLECTION; EXEMPTIONS TO REMOVE SECURITY DEPOSIT EXEMPTION. REVISING ARTICLE V – HAZARDOUSE WASTE MANAGEMENT; REVISING SEC. 94-286 – DEFINITIONS TO UPDATE CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR TO VERY SMALL QUANTITY GENERATOR. DELETE ARTICLE VII – DEBRIS REMOVAL FROM PRIVATE RIGHT OF WAY AND OTHER PRIVATE PROPERTY.

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 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 BOIARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

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

Sec. 94-1. Definitions.

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 ~~M~~municipal ~~S~~service ~~B~~benefit ~~U~~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 ~~B~~board of ~~C~~county ~~C~~commissioners. The assessment for the applicable fiscal year is based upon the classification of the use of such property as specified in the ~~R~~rate ~~R~~resolution.

Annual collection and recycling program special assessment roll means the list prepared by the ~~D~~director and confirmed by the ~~B~~board of ~~C~~county ~~C~~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 ~~P~~property ~~A~~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 Mmunicipal Sservice Bbenefit 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.

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 Mmunicipal Sservice Bbenefit 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 Mmunicipal Sservice Bbenefit Unit which includes all improved real properties in the county.

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.

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.

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

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

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.

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 Contractagreement.

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.

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.

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 State 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~~Regulation (FDEP).

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

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.

Landclearing debris means rocks, soils, tree remains, trees, large branches, stumps, root balls, palms, shrubs, and other vegetative matter which ~~can~~normally typically results 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, ~~commercial~~ 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, ~~farming operations, nursery operations, or any other source not directly related to a construction project.~~

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.

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 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.

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

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 Contractagreement.

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 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 Contractagreement between the collector and the County.

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

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 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 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 Collector means the tax collector of the County.

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). ~~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 Contractagreement.

SECTION 2. Section 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. 67-1146, 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. 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.

SECTION 4. Section 94-31. – Solid Waste Collection and Recycling Municipal Service Benefit Unit Created; Boundaries, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-31. Solid waste collection and recycling program municipal service benefit unit created; boundaries.

There is hereby created the solid waste collection and recycling program Mmunicipal Sservice Bbenefit Uunit under the authority of F.S. § 125.01. The boundaries of the Bbenefit

Unit shall be that property within the unincorporated areas of the County, a description of which is on file in the office of the Director.

(Code 1979, § 12-3; Ord. No. 97-25, § 1, 7-22-97)

State law reference(s)—Authority to create Mmunicipal Sservice Bbenefit Uunit, F.S. § 125.01(1)(q).

SECTION 5. Section 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 Mmunicipal Sservice Bbenefit Uunit 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.
- (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 Contractagreement. Said solid wastes shall be removed and disposed of by the owner in accordance with applicable laws and regulations.

SECTION 6. Section 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, generated or accumulated on residential improved real properties within the Mmunicipal Sservice Bbenefit Uunit 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 Mmunicipal Sservice Bbenefit Uunit 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 7. Section 94-47. – Residential Solid Waste Receptacle, 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.

SECTION 8. Section 94-49. – Yard Waste Collection, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-49. Yard waste collection.

- (a) Yard waste set out for 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 waste which includes leaves, pine needles, lawn clippings, palm fronds and tree and shrub trimmings shall be placed in yard waste receptacle(s).
- (c) All yard ~~waste~~ ~~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. For removal of yard waste not meeting the size and weight limits and exceeding three cubic yards

in volume, 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 collection service and is considered landclearing debris.
- (e) Contractors engaged in the landscaping or tree cutting business shall be responsible for collection and disposal of the yard waste~~landclearing debris~~ generated from their operations and pay the fees and charges as limited by the Rate Resolution adopted by the Board of County Commissioners in accordance with subsection 94-233(2). Contractors shall provide proof of origin of the debris at the scale house. It shall be a violation of this section for any person(s) engaged in the business of tree trimming or landscaping to set out landclearing debris~~yard waste~~ for pickup by a Collector. ~~unless said yard waste is placed in an appropriate yard waste receptacle.~~
- (f) Persons engaged in clearing property shall be responsible for the collection and disposal of the 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). Those persons shall provide proof of origin of the debris at the scale house. 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 collection service by the Collector.

SECTION 9. Section 94-61. – Requirements Governing Removal and Disposal Solid Waste from a Commercial Property, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-61. Requirements governing removal 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 subsection 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 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 10. Section 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 specifications.*

- (1) All solid waste shall be placed in solid waste receptacles, 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.
- (2) All solid waste, cans, bottles and other containers shall be drained of all liquids prior to deposit in the required solid waste receptacles.
- (3) Solid waste receptacles shall be kept closed at all times, except when depositing solid waste.
- (4) 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) *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:

SECTION 11. 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.

SECTION 12. Division 5. Collection Agreements and Permits, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

DIVISION 5. COLLECTION CONTRACT AGREEMENTS AND PERMITS

SECTION 13. Section 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 Contract agreements authorized; public hearing; notice; permits.

- (a) The Board of County Commissioners may enter into Collection Contract agreements with any qualified person, through solicitation of competitive bids for services, to provide for 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 contract agreements shall be exclusive for the collection of solid waste generated on improved real property and for recyclable materials from residential improved real properties within the service area.
- (b) With respect to construction, demolition and landclearing debris, the Board of County Commissioners may 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 permits shall be nonexclusive and the term shall not exceed onefive years.

- (c) A Collection Contractagreements 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 Contractagreement, 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 Contractagreement; 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 Contractagreement, 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 14. Section 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 contractagreement 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 Contractagreement 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 Contractagreement 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 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 or landclearing debris on any real property in the unincorporated area of the County without 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 Collection of recyclable materials from residential improved real properties in the unincorporated area of the County without first entering into a Collection Contractagreement with the Board of County Commissioners as authorized in section 94-91.

SECTION 15. Section 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 landsclearing debris on any real property in the unincorporated area of the 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, a valid Business Tax Receipt, and the permit application fee as set by Rate Resolution adopted by the Board of County Commissioners as amended, in accordance with subsection 94-233(2).
- (b) The Board shall establish, by Rate Resolution, roll-off permit application fees.
- (c) Roll-off permits shall be effective for a maximum-term of onefive years from the date of issuance. The roll-off permit is subject to revocation prior to the expiration date as set forth in section 94-96.

SECTION 16. Section 94-94. – Issuance, Denial, Transfer of Permits, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-94. Issuance, denial, transfer of permits.

- (a) Within 30 days of receipt of a completed application, the Director shall issue or deny the roll-off permit.
- (b) The roll-off permit shall be issued in the name of a person or entity and is nontransferable. The permit holder is responsible for the truth and accuracy of all information submitted within the permit application, and for compliance with all conditions set forth in the permit.
- (c) Submission of false information with a permit application shall be grounds for denial of a permit or revocation of any permit issued based on that information.
- (d) The Director may attach special conditions to the roll-off permit in addition to those set forth in section 94-97 as are necessitated by the unique characteristics of the proposed operation and which are consistent with the intent and purpose of this article and which will provide reasonable assurance that the proposed activity will meet all state and local requirements, have no adverse impact on the health, safety and welfare of the county, and will not create a public nuisance.
- (e) The applicant may appeal the Director's denial in the same manner as provided for appeal of revocation of permits in section 94-96.

SECTION 17. Section 94-95. – Permit Renewal, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-95. Permit renewal.

Any roll-off permit holder desiring to renew an existing permit shall complete and submit to the Director an application not more than 60 days nor less than 30 days before the expiration date of the current permit. Permit fees, as established by Rate Resolution as amended, adopted by the Board, shall be submitted with the application.

SECTION 18. Section 94-96. – Permit Revocation; Hearings, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-96. Permit revocation; hearings.

- (a) Permits shall be effective until revoked by the Director, surrendered by the permit holder, or expired.
- (b) The following are grounds for revocation of a permit:
 - (1) Submittal of false or inaccurate information in the application;
 - (2) Failure to comply with the permit conditions;
 - (3) Refusal of lawful inspection;
 - (4) Failure to pay any disposal charges for solid waste disposed of at the county's solid waste management facilities; and
 - (5) Violation of any law, ordinance, resolution, rule or regulation of the state or local government.
- (c) The Director may issue a notice of intent to revoke a permit upon evidence of the occurrence of any of the grounds itemized in subparagraph (b). Notice may be provided by personal service to the permit holder or certified mail sent to the business address. The permit holder shall have 15 calendar days from the date of the notice of intent to revoke a permit to demonstrate full correction of the violation or to present evidence to the Director that no violation has occurred. The revocation shall become final and effective on the 16th day after the date of the notice of intent to revoke the permit, unless the permittee first files with the Director a written response stating the reasons why the grounds for revocation are inaccurate and a written notice of intent to challenge the revocation requesting a hearing to determine whether the revocation will become effective. Permittee shall abate any code violation(s).
- (d) When a permittee files a written response and notice of intent to challenge a pending revocation then a public hearing to determine if the pending revocation will become effective and final shall be held by the Special Magistrate. The Director shall notify the County Attorney and the clerk to the Special Magistrate who shall schedule and provide notice of the hearing.
 - (1) The revocation hearing should be held within 20 days of a written challenge and request for a hearing, or as soon thereafter as can reasonably be scheduled, but no sooner than after seven days notice mailed to the permittee.

- (2) The participants before the Special Magistrate shall be the permittee, any witnesses of the permittee, County staff, any interested members of the public, and any witnesses of the interested members of the public. Any interested member of the public who participates at the hearing shall provide a mailing address to the Special Magistrate.
 - (3) The permittee and any witnesses of the permittee shall be limited to a total of 30 minutes to present the permittee's case. County staff shall be similarly limited to a total of 30 minutes. Each interested member of the public and their witnesses, shall be limited to ten minutes. For good cause shown, the Hearing Officer may grant additional time to each side or the public.
 - (4) Testimony and evidence may be submitted by any witness but shall be limited to matters directly relating to the grounds for revocation. Irrelevant, immaterial, or unduly repetitious testimony or evidence may be excluded.
 - (5) All testimony shall be under oath. The Special Magistrate shall decide all questions of procedure and standing. The order of presentation of testimony and evidence shall be as follows:
 - a. The permittee and any witnesses of the permittee.
 - b. Any interested member of the public and their witnesses, if any.
 - c. The County staff and any witnesses.
 - d. Rebuttal witnesses from the permittee.
 - e. Rebuttal witnesses from the County staff.
 - f. Summation by the permittee.
 - g. Summation by the County staff.
 - (6) The Special Magistrate may also call and question witnesses or request additional evidence as deemed necessary and appropriate.
 - (7) To the maximum extent practicable, the hearing shall be informal. Reasonable cross examination of witnesses shall be permitted, but questioning shall be confined as closely as possible to the scope of direct testimony.
 - (8) If the Special Magistrate comes to believe that any facts, claims, or allegations necessitate additional review or response by either the permittee or staff, then the hearing may be continued until an announced date certain.
 - (9) The Special Magistrate shall render a written decision determining whether the grounds for permit revocation have been established within ten days after conclusion of the revocation hearing. The written decision shall specifically include findings determining whether the violation(s) of subsection 94-96(b) occurred and whether the permittee is responsible because the permittee had actual or implied knowledge that the violation(s) were being committed, or the violation(s) were facilitated or condoned by the permittee.
- (e) *Filing of decision.* The original of the written decision of the Special Magistrate shall be filed with the clerk to the special magistrate, and copies shall be mailed to the Director, Code Enforcement, the permittee, and to any interested member of the public who participated at the hearing.

- (f) *Surrender of permit.* A notice of final revocation shall be provided to the permittee in person or by certified mail to the permittee's record address.
- (g) *Effective date of revocation.* The revocation of a permit shall take effect the day after delivery of a notice of final revocation to the permittee in person, or by mail to the permittee's address of record, or on the date the permittee surrenders the permit, whichever happens first. The permittee shall immediately return and surrender a revoked permit to Director.

SECTION 19. Section 94-97. – General Permit Conditions, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-97. General permit conditions.

All roll-off permits shall include the following general conditions:

- (1) The terms, conditions, requirements and restrictions set forth in this permit are binding upon the permittee, and the permittee is responsible for compliance with all permit conditions. The permittee shall be subject to periodic inspections of the equipment and operations for which the permit is issued.
- (2) The permit is valid only for the specific processes and operations applied for and indicated in the approved application submittals.
- (3) The issuance of a roll-off permit does not convey any vested rights or any exclusive privileges. Neither does the permit authorize any injury to public or private property or any invasion of personal rights, or any infringement of federal, state, or local laws or regulations. The issuance of a permit is not a waiver of or approval of any other activity for which a permit may be required, including a valid local business tax receipt.
- (4) The issuance of a permit does not relieve the permittee from liability for harm or injury to human health or welfare, animals, plants, aquatic life or property, and penalties thereof caused by the performance of operations set out in the permit, nor does it allow the permittee to cause pollution in contravention of any federal, state, or local law.
- (5) The permittee shall indemnify and save harmless the Board from any and all liability, claims, damages, losses, expenses, proceedings and causes of action of every kind and nature arising out of or connected with the performance of the operations set out in the permit. The permittee shall, at the permittee's own expense, defend any and all actions, suits or proceedings which may be brought against the County caused by the permittee's neglect or mismanagement, or by the actions of any of the permittee's employees while engaged in the operations authorized in the permit, and to satisfy, pay and discharge any and all judgments that may be entered against the county in any such action or proceedings.
- (6) The permittee shall, during the term of the permit, obtain and maintain in full force property damage insurance insuring the permittee in an amount not less than \$1300,000.00 to cover the claims of any person or persons from a single or specific act that results in alleged damage to property. The permittee shall, during the term of the agreement, also provide and maintain in full force, ~~motor vehicle public~~ commercial auto liability insurance in an amount of not less than \$1300,000.00 per occurrence to cover ~~the claims of one person, and \$500,000.00 per incidents.~~ The

~~board~~ Brevard County shall be listed on each policy as a party to be notified in the event of the insurance is ever cancelled or expires.

- (7) The permittee shall, at its sole expense, procure from all local, state, and federal governmental agencies and authorities having jurisdiction over the operations of the permittee all licenses, certificates, permits, or other authorization which may be necessary for the conduct of the permittee's operations.
- (8) The permittee shall deliver construction, demolition or landclearing debris only to a solid waste management facility where all applicable federal, state and local permits for such activity have been acquired.
- (9) Prior to delivering construction, demolition or landclearing debris to a County owned and operated solid waste management facility, the permittee shall establish a landfill disposal account with the department.
- (10) All trucks and roll-offs used by the permittee, whether owned or leased, shall be prominently and legibly identified on both left and right sides with the permittee's name and permittee's business telephone number, in letters and numbers not less than three inches in height, either painted on or attached by signs to the affected trucks. The permittee shall give each of its trucks an identification number that shall be visible and legible at all times and shall appear on the front and rear bumpers of the truck in numbers not less than three inches in height.
- (11) All trucks, containers, and equipment shall conform to proper registration and license tag requirements. All trucks and roll-off containers driven or moved on any public highway shall be constructed, loaded, covered and secured in accordance with F.S. § 316.520, as amended from time to time.
- (12) Roll-off containers shall not be overloaded so as to scatter construction, demolition and landclearing debris, but when debris is scattered from the permittee's container for any reason, it shall be the responsibility of the permittee to immediately pick up such scattered waste.
- (13) The permittee's trucks, equipment and containers shall not interfere with vehicular and pedestrian traffic and trucks shall not be left standing on streets, right-of-ways or alleys unattended. The placement location of roll-off containers on public or private property shall be in the same manner as required of temporary storage units in accordance with section 62-2117.5 of the Code of Ordinances of Brevard County.
- (14) The permittee shall provide an accurate and up-to-date list of all vehicles and equipment, including containers be used for the placement, storage, and collection of approved debris, to the Director annually by the date of permit issuance.
- (15) The permittee shall place and pick-up roll-off containers with a minimum of noise and disturbance to adjacent properties and shall not place or pickup containers prior to 7:00 a.m. or after the hour of 8:00 p.m. except during a Board of County Commissioners designated emergency.
- (16) The permittee shall provide proof of origin of the debris being brought to the County's solid waste management facilities at the scale house.
- (17) The permit holder shall provide information about each user of their service as required from time to time by the County in a format and on a media to be defined by the County. The County shall provide the permit holder with a written request for information and the media required and shall specify the date the information is required.

(187) 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 20. Section 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 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 21. Section 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 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.

SECTION 22. Section 94-166. – Disposal of Solid Waste, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-166. Disposal of solid waste.

- (a) Unless otherwise exempted or prohibited, the disposal of solid waste in the county other than at the Ceounty'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 is prohibited.
- (b) Only solid waste generated within incorporated and unincorporated Brevard County shall be disposed of in the solid waste management facilities owned and operated by the Ceounty.
- (c) Any person desiring to dispose of special solid waste at the Ceounty's solid waste management facilities shall be required to have the special solid waste approved by the Director prior to disposal at the county's solid waste management facilities.

SECTION 23. Section 94-167. – Limited Exemption for Clean Debris, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-167. Limited exemption for clean debris.

For the purpose of this chapter clean debris shall not be considered solid waste. However, clean debris that is mixed with construction and demolition debris shall cause it to be classified as construction and demolition debris, and clean debris mixed with any other solid waste will cause it to be classified as solid waste and shall be disposed of in accordance with the requirements of this chapter. The accumulation of clean debris on improved or unimproved property, which is declared a public nuisance by the Director or code enforcement officer in accordance with section 94-183, is prohibited.

SECTION 24. Section 94-182. – Applicability of Florida Litter Law, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-182. Applicability of Florida Litter Law.

In addition to, and not in limitation of, the provisions of this division, the provisions of F.S. § 403.413, also known as the Florida Litter Law, and as amended from time to time, are hereby incorporated into this chapter. A copy of the Florida Litter Law is on file in the office of the Director.

SECTION 25. Section 94-183. – Public Littering Prohibited; Public Nuisance, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-183. Public littering prohibited; public nuisance.

- (a) The disposal of solid waste, including litter and dead animals, in any manner or amount whatsoever, into or on any public or private lands or water bodies in the Ceounty, in any manner except where in compliance with this chapter is prohibited.

- (b) The removal and scattering of any contents of a solid waste, recyclable materials or litter receptacle into or on any public or private lands or water bodies in the County is prohibited, except in compliance with this chapter.
- (c) The accumulation of solid waste, including litter, on improved real properties is prohibited, except when it is accumulated on-site between regular collection days and is contained in solid waste or litter receptacles or commercial containers or compactor boxes. Accumulation of solid waste, including litter, on unimproved real properties is prohibited. Such accumulations shall be removed by the owner and disposed of in accordance with the requirements of this chapter.
- (d) The accumulation of litter or clean debris, upon any lot, tract or parcel of land, improved or unimproved, within the unincorporated area of the County, to the extent and in the manner that such lot, tract or parcel of land is or may become infested or inhabited by rats, mice, other rodents, snakes, vermin, pests or wild animals, or may furnish a breeding place or harboring place for flies, mosquitoes or other harmful insects, or threatens or endangers the public health, safety or welfare, or may cause disease, environmental hazards, potential hurricane hazards, or adversely affects and impairs the economic welfare of adjacent property, is hereby declared to be a public nuisance and thereby prohibited.

SECTION 26. Section 94-184. – Unlawful Conveyance of Solid Waste; Littering from Vehicles, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-184. Unlawful conveyance of solid waste, littering from vehicles.

- (a) Except as provided in section 94-61 and for the municipalities of the County or their franchised or contractual collectors, no person shall convey solid waste over or upon the roads, streets or highways of the county without first entering into a Collection Contractagreement with the Board of County Commissioners as provided in section 94-91 or obtaining a permit as provided in section 94-92 for removal of construction and demolition debris from construction and demolition sites.
- (b) No vehicle shall be driven, moved, stopped or parked, on any public property within the unincorporated area of the County unless constructed or loaded so as to prevent any of its load from dropping, leaking, blowing, falling, sifting or otherwise being disbursed, discharged or escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance approved by the Director may be sprinkled on the road surface for cleaning or maintenance purposes.
- (c) Any owners, lessee and operator, jointly and severally, of any vehicle hauling solid waste, including construction and demolition debris, landclearing debris, or other loose materials, upon any public road or highway within the unincorporated area of the County shall prevent such material from falling, blowing, leaking, dropping, or otherwise being discharged, dispersed, or escaping from such vehicle. Covering and securing loads with a closefitting tarpaulin or other appropriate cover of adequate size is required.
- (d) Any owner, lessee and operator, jointly and severally, of any vehicle traveling upon a public road, highway or waterway within the County from which any materials have fallen, dropped, leaked or otherwise been discharged, disbursed, thrown or escaped, causing litter, obstruction to motorists or boaters, or damage to other vehicles, public property, or

the environment shall immediately cause the materials to be cleaned up, and shall pay for any cleaning costs so incurred by the Board of County Commissioners.

SECTION 27. Section 94-196. – Illegal Disposal of Used Oil, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-196. Illegal disposal of used oil.

In addition to, and not in limitation of, the provisions of this division, the provisions of F.S. § 403.751, relating to the illegal disposal of used oil, as amended from time to time, are hereby incorporated by reference. A copy of these provisions is on file in the office of the Director.

SECTION 28. Section 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 Hhealth 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) 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 home-user 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) 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 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 29. Section 94-232. – Determination of Annual Special Assessments and Service Fees, 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 all residential improved real property within the solid waste collection and recycling program Mmunicipal Service Benefit Unit for:
 - (1) The 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) 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 improved real property within the solid waste disposal Mmunicipal Service Benefit Unit 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 30. Section 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 **B**oard of **C**ounty **C**ommissioners 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 **C**ounty 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 service fees and charges and for the payment of the current operation and maintenance of such facilities and programs.
 - (2) A **R**ate **R**esolution 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 collection of solid waste and for implementation of the recycling program. Such schedule should provide sufficient revenues to fund the collection of solid waste and the recycling program within the **B**enefit **U**nit and shall include the rate of compensation the **C**ounty will pay the **C**ollector for providing solid waste and recyclable materials collection services to residential improved real property within the service areas, and the monthly rates, and charges the **C**ollector may charge for providing collection services to nonresidential improved real property within the unincorporated area of the **C**ounty 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 **C**ounty's franchise agreement.
 - (3) A **R**ate **R**esolution 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 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 **C**ounty 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 31. Section 94-234. – Preparation and Certification of Annual Special Assessment Rolls to Tax Collector, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

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

- (a) On or before September 15 the **D**irector shall cause to be prepared the annual special assessment rolls based on information provided by the **P**roperty **A**ppraiser. Such rolls shall contain a summary description of each parcel of improved real property within the applicable **B**enefit **U**nit or area of the **C**ounty, the name and address of the owner of

each such parcel, the rate classification applicable to each parcel of improved real property as specified in the Rrate Rresolution and the amount of the special assessment applicable to each parcel of improved real property. The summary description of each parcel of improved real property shall be in such detail as to permit ready identification of each parcel on the real property assessment roll.

- (b) The Board of County Commissioners shall, at any regular or special meeting on or before September 15, review the annual special assessment rolls prepared by the Director for its conformity with the rate resolution provided for in section 94-233. The Board shall make such changes or additions as necessary to conform such rolls with the Rrate Rresolutions. If upon the completion of such review the Board is satisfied that the annual special assessment rolls have been prepared in conformity with the Rrate Rresolution, it shall ratify and confirm such rolls and certify the rolls to the Tax Collector for collection.
- (c) If any classification of improved real property designated in the Rrate Rresolution requires an individual calculation of an annual special assessment, the Director shall calculate and determine such annual special assessment.
- (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 32. Section 94-235. – Method of Collection of Annual Special Assessments and Service Fees, 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.
- (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 Rrate Rresolution.

SECTION 33. Section 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, 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 either be billed by the Board of County Commissioners or its authorized representative, or added to the building permit fee with provisions for refund or forfeiture.
- (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 if billed by the Board.
- (e) All prorated special assessments which become delinquent shall constitute, and are hereby imposed as, liens against the applicable improved real property against which the prorated assessment have been imposed. Until fully paid and discharged, or waived by law, such prorated special assessment 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 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 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 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 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 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 34. Section 94-237. – Separately Prepared Annual Special Assessment Notices and Service Fee Invoices, 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 35. Section 94-238. – Correction of Errors and Omissions; Petition to the 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 36. Section 94-239. – Failure to Include Real Property on Annual Special Assessment Rolls, 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 March 31 for the current fiscal year.

SECTION 37. Section 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, 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 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 adopted under the provisions of section 94-232, unless specifically exempted by the Board.

SECTION 38. Section 94-241. – Exemptions from Annual Collection and Recycling Program Special Assessments and Service Fees; 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 Deirector 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 Deirector in accordance with the provisions of section 94-242.

SECTION 39. Section 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 Deirector. 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 Deirector 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 March~~August~~ 31 for the following fiscal year in order to obtain an exemption for that year. Applications received after March~~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.
- 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 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 40. Section 94-243. – Discretion of Board to Exclude Certain Areas from Annual Disposal Special Assessment, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-243. Discretion of board to exclude certain areas from annual disposal special assessment.

The Board of County Commissioners shall have the power each year to exclude improved real property in certain areas of the County from the annual disposal special assessment roll, and any addendum, if any, and the imposition of the annual disposal special assessment imposed by the provisions of this division. Such power shall be exercised within the discretion of the Board by the adoption of a resolution specifically describing those areas to be excluded, based upon a consideration of the following factors:

SECTION 41. Section 94-244. – Applicability of Special Assessments and Service Fees 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 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 42. Section 94-245. – Vacancy Adjustments for Improved Real Property from Annual Special Assessments and Service Fees; 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 year~~ to December~~July~~ 31 of the preceding~~current~~ 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).

SECTION 43. Section 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 described in section 94-245.
- (b) *Filing date.* The petition should be filed with the Director prior to March~~August~~ 31 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 special assessment for 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 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 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 prior by August 31 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 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 Ceounty Manager.
- (3) Meet 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 44. Section 94-259. – Public Hearing; Notice, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-259. Public hearing; notice.

- (a) The Board of Ceounty Commissioners shall hold a public hearing and adopt a Rate Resolution establishing a schedule of impact fees to be imposed pursuant to this division.
- (b) Notice of the public hearing shall be published in a newspaper of general circulation in the Ceounty, at least twice, with the first publication being at least 20 days prior to the public hearing.

SECTION 45. Section 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 Ceounty 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 Ceounty 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 Ceounty, by the Board of Ceounty 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 46. Section 94-261. – Use of Funds, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-261. Use of funds.

- (a) The Board of County Commissioners shall be entitled to up to, but no more than, two percent of the funds collected pursuant to this division, to compensate for the administrative expense of collecting and administering this solid waste impact fee program. All remaining funds collected from solid waste impact fees shall be used for the purpose of capital improvements to, and expansion of, the County's solid waste disposal system. Such improvement shall be of the type made necessary by new development and new users.
- (b) Funds shall be used exclusively for capital improvements or expansion within the solid waste impact fee district defined in section 94-256. Funds shall be expended in the order in which they are collected.
- (c) Each fiscal year the County Manager may present to the Board of County Commissioners a proposed capital improvement program for solid waste, assigning funds, including accrued interest, if any, from the above described solid waste impact fee trust fund, to specific solid waste improvement projects and related expenses. Monies, including accrued interest, if any, not assigned in any fiscal period shall be retained in the same solid waste impact fee trust fund until the next fiscal period, except as provided by the refund provisions of this division.

SECTION 47. Section 94-262. – Public Hearing; Notice, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-262. Refund of fees paid.

Any funds not expended or incurred by the end of the calendar quarter immediately following six years from the date the solid waste impact fee payment was received by the

Board shall, upon application of the then current owner, be returned to the then current owner, within 180 days after the expiration of the six-year period.

SECTION 48. Section 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 nonresidential 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 fee 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 **D**irector. Any exemption not so claimed shall be deemed waived by the fee payer.

SECTION 49. Section 94-264. – Notice of Impact Fees, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-264. Notice of impact fees.

- (a) The **B**oard of **C**ounty **C**ommissioners shall provide a notice of solid waste impact fees, on such form as deemed appropriate by the **B**oard, to each applicant for a building permit in the unincorporated areas of the county.
- (b) The **B**oard shall provide a solid waste impact fee notice to the building departments of each of the municipalities within the **C**ounty. The municipalities shall provide the solid waste impact fee notices to each applicant for building permit within their jurisdiction affected by the provisions of this division.

SECTION 50. Section 94-265. – Review of Impact Fee Schedule, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-265. Review of impact fee schedule.

The solid waste impact fee schedule provided for in section 94-259 shall be reviewed by the Board of County Commissioners at least once each fiscal biennium.

SECTION 51. Section 94-276. – Public Hearing to Determine Amounts, 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 52. Section 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 ~~B~~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 ~~R~~rates ~~R~~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 ~~B~~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 ~~B~~board may be discontinued.
- (f) Delinquent bills shall be enforced by the ~~B~~board in any manner provided by law.
- (g) Delinquent bills may be discharged and satisfied by payment to the ~~B~~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 53. Section 94-286. – Definitions, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-286. Definitions.

~~Conditionally exempt small quantity generator means those businesses, industries, individuals or entities, other than a single family household, which:~~

- ~~(1) Produce less than 100 kilograms (220 lbs.) per month (half of a 55 gallon drum) of hazardous waste; or~~
- ~~(2) Produce less than one kilogram (2.2 lbs.) of an acute hazardous waste; and~~
- ~~(3) Never store more than 1,000 kilograms (2,200 lbs.) of hazardous waste at any one time.~~

Very~~Conditionally exempt small quantity generator means those businesses, industries, individuals or entities, other than a single family household, which:~~

- (1) Produce less than 100 kilograms (220 lbs.) per month (half of a 55 gallon drum) of hazardous waste; or
- (2) Produce less than one kilogram (2.2 lbs.) of an acute hazardous waste; and
- (3) Never store more than 1,000 kilograms (2,200 lbs.) of hazardous waste at any one time.

SECTION 54. Section 94-287. – Authority, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-287. Authority.

F.A.C. ch. 62-731, mandates that each County conduct a hazardous waste management assessment, notification and verification program to identify the management and disposal practices of presumed and known hazardous waste generators. This article shall apply to the incorporated and unincorporated areas of the County.

SECTION 55. Section 94-288. – Public Hearing; Notice, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-288. Purpose and intent.

To provide an effective, equitable hazardous waste assessment, notification and verification program in the County for the protection of all citizens of the County and the environment.

SECTION 56. Section 94-289. – Notifying Generators, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-289. Notifying generators.

- (a) Each hazardous waste generator is responsible for determining whether its operation or process generates hazardous waste within the meaning of 40 CFR 262.11, as amended or revised from time to time. No division determination as to hazardous waste generator status shall be considered binding or conclusive on federal and/or state agencies which may seek to enforce federal or state law regarding the disposal of hazardous waste.
- (b) The division shall review all Business Tax Receipt business codes to determine which codes indicate that the applicant is likely to generate hazardous waste within the meaning of 40 CFR 262.11, as amended or revised from time to time, considering the nature of the business' operation and/or process. The division shall presume that a Business Tax Receipt applicant is a hazardous waste generator based on the applicant's business code submitted to the county Tax Collector for the purposes of obtaining or renewing a County Business Tax Receipt. This presumption may be appealed as set forth in subsection 94-292(e). The division may also inspect an entity or individual conducting business within the county during the business' regular operating hours, regardless of the licensee's submitted business code, to determine whether its process or operation generates hazardous waste within the meaning of 40 CFR 262.11, as amended or revised from time to time. After the division's inspection, a business or individual may appeal the division's determination of hazardous waste generator status as set forth in subsection 94-292(e). Upon the division's determination of hazardous waste generator status, and the conclusion of any appeal provided for in this section. The hazardous waste generator is a known hazardous waste generator for the purpose of this article, and subject to the fees set forth in this article regardless of the manner of disposition of hazardous waste and/or compliance or noncompliance with federal and state law regarding the disposition of hazardous waste.

- (c) The division shall notify the presumed and known hazardous waste generators as of November 1, 1994 by first time notification by mail. This notification will inform the hazardous waste generators of their legal responsibility to properly identify and dispose of hazardous waste that is produced by the generator. Thereafter, notice of the program, their legal responsibility to properly identify and dispose of hazardous waste that is produced by the generator and hazardous waste inspection fee shall be provided to presumed and/or known hazardous waste generators at the time of the generator's application for or renewal of their ~~B~~business ~~T~~tax ~~R~~receipt, along with the license applicant/holder's regular notice of the ~~B~~business ~~T~~tax ~~R~~receipt under chapter 102. The inspection fee shall be collected by the county tax collector along with business taxes collected annually and as more specifically set forth in section 94-292.

SECTION 57. Section 94-290. – Division Standards and Procedures, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-290. Division standards and procedures.

- (a) The division shall adopt procedures for the implementation of this program.
- (b) The division standards for determining hazardous waste disposal compliance shall be the following documents and/or authorities, and each of these documents and/or authorities, or parts thereof, adopted and incorporated as standards shall include any amendments, revisions, or successors to these documents and/or authorities which may take place after November 1, 1994:
- (1) FDEP ~~B~~ "Guidelines to Conduct the County Small Quantity Generator Assessment, Notification and Verification Program."
 - (2) 40 CFR Pars 260 through 268.

SECTION 58. Section 94-291. – Compliance and Enforcement, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-291. Compliance and enforcement.

The ~~B~~board of ~~C~~county ~~C~~commissioners authorizes the division to perform compliance inspections of presumed and known small quantity generator facilities located in the ~~C~~county during the generator's regular business hours. If the division discovers potential violations of the federal and/or state regulations adopted as division standards, the division will notify the FDEP ~~C~~entral ~~D~~istrict office. The FDEP will determine whether there is a need for enforcement activities and will be responsible for implementing such enforcement activities.

SECTION 59. Section 94-292. – Fees, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

Sec. 94-292. Fees.

- (a) The ~~B~~board of ~~C~~county ~~C~~commissioners shall establish by resolution hazardous waste inspection fees to recover the costs of the implementation of the hazardous waste management assessment, notification and verification program. The fee as of November 1,

1994 shall be as set forth in Brevard County Resolution number 94-195, and the board hereby ratifies any fees which the division collected under Resolution number 94-195 between the date of Resolution 94-195 and November 1, 1991.

- (b) No initial or annual ~~B~~business ~~I~~tax ~~R~~receipt shall be issued by the ~~C~~ounty ~~I~~tax ~~C~~ollector for any business, business location, profession or occupation, as defined in chapter 102, within the ~~C~~ounty, where the division has determined such business, business location, profession or occupation is a known hazardous waste generator, and all appeals, if any, to such status are concluded, until the hazardous waste inspection fee has been paid.
- (c) Any person applying for an initial or annual ~~B~~business ~~I~~tax ~~R~~receipt for any business, business location, profession or occupation whose business or operations fall within the ~~C~~ounty classification codes for hazardous waste generators shall also complete an information form provided to the ~~B~~business ~~I~~tax ~~R~~receipt department by the division at the time of application. In addition, known hazardous waste generators may be required to update this information form upon the division's request.
- (d) The ~~C~~ounty ~~I~~tax ~~C~~ollector may renew a business tax receipt for any business which has not changed ownership, nor materially changed in its operation, unless otherwise notified by the division. If a request for renewal of a ~~B~~business ~~I~~tax ~~R~~receipt is denied pursuant to this subsection, the application shall be processed in the same manner as a new application.
- (e) Upon written notice of presumed hazardous waste generator status, the presumed hazardous waste generator may contact the division for an inspection to determine whether the presumed generator's operation, in the opinion of the division, creates hazardous waste within the meaning of 40 CFR 261.5. After receiving written notice of the division's determination of hazardous waste generator status by certified mail, the presumed hazardous waste generator may appeal the division's status determination by requesting an appeal, in writing, to the person and address set forth in the notice of determination within 30 days of receipt of the notice. The division shall establish procedures for the appeal, such procedures to be submitted for approval by the ~~B~~oard ~~of~~ ~~C~~ounty ~~C~~ommissioners by resolution. The appeal procedure as of November 1, 1994 is as set forth in Resolution number 94-195.

SECTION 60. Article VII. Debris Removal from Private Road Right of Way and Other Private Property, Code of Ordinances of Brevard County, Florida is hereby amended to read as follows:

~~ARTICLE VII. DEBRIS REMOVAL FROM PRIVATE ROAD RIGHT-OF-WAY AND OTHER
PRIVATE PROPERTY~~

~~Sec. 94-330. Declaration of legislative intent and public policy.~~

~~The board finds that in the event of a disaster occurring in the county, a public health and safety threat may result from the generation of widespread debris throughout the county, that such debris constitutes a hazardous environment for transportation of the residents as well as emergency aid and relief services, endangerment to properties in the county, an environment conducive to breeding disease and vermin, and greatly increased risk of fire, and that it is in the public interest to collect and remove disaster debris from all properties, whether public lands, public or private roads or within gated communities, to eliminate an immediate threat to life, public health and safety, to reduce the threat of additional damage to improved property, and to promote economic recovery of the community at large.~~

~~It is the intent of this article to promote the health, welfare and safety of the residents of the county by providing for the collection and removal of disaster debris throughout the unincorporated public and private roads, gated communities and public areas of the county, to eliminate an immediate threat to the life, public health and safety of the residents of the county. The county may extend disaster debris removal services to incorporated areas of the county through interlocal agreements with municipalities.~~

~~(Ord. No. 2016-001E, § 2, 11-3-16)~~

~~Sec. 94-331. Definitions.~~

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

~~**CEMP** means the current Brevard County Comprehensive Emergency Management Plan, and any subsequent amendments, supplements or revisions.~~

~~**Disaster-generated debris** or **debris** shall include, but is not limited to, broken or discarded building and construction materials, garbage, vegetative matter and spoiled or ruined household goods or materials deposited on county-owned property or right-of-way or on private roads as a direct result of a major disaster or a catastrophic disaster as described in the CEMP and DMP. The term does not include:~~

~~(1) — Debris from vacant lots, forests, heavily wooded areas, unimproved property, and unused areas;~~

~~(2) — Debris on agricultural lands used for crops or livestock;~~

~~(3) — Concrete slabs or foundations on-grade; and~~

~~(4) — Construction and demolition debris consisting of materials used in the reconstruction of disaster-damaged improved property.~~

~~**DMP** means the current Brevard County Solid Waste Management Department Debris Management Plan, and any subsequent amendments, supplements or revisions, including any action taken by the county in accordance with this article.~~

~~**Hazardous tree** means a tree greater than six inches in diameter (measured at diameter breast height) and which meets any of the following criteria:~~

~~(1) — More than 50 percent of the crown is damaged or destroyed;~~

~~(2) — The trunk is split or broken branches expose the heartwood; or~~

~~(3) — The tree is leaning at an angle greater than 30 degrees and shows evidence of ground disturbance.~~

~~**Hazardous limb** means a broken tree limb greater than two inches in diameter measured at the point of break.~~

~~**Private road** means any road or street, including streets in gated communities, that is not owned or controlled by a governmental entity, that has not been dedicated to public use or has not been accepted for maintenance by the county or other governmental entity. The term also includes the land lying within the three-foot roadside shoulder area on both sides of the travel lanes of such road.~~

~~**Right-of-way** means the portions of county-owned land over which facilities such as highways, roads, railroads, or power lines are built. The term includes the county-owned land on both sides of such facilities up to the boundary of the adjoining property.~~

~~(Ord. No. 2016-001E, § 3, 11-3-16; Ord. No. 2017-20E, § 1, 9-7-17)~~

~~Sec. 94-332. Removal of debris; authority, priorities and limitations.~~

~~(a) — **[Authority of county.]** The county has the authority to enter onto and may remove debris from private property when such debris is determined to pose an immediate threat to life, public health and safety, and to the welfare of the community, so that it is in the public interest for the county to remove such debris. The board or, pursuant to the CEMP, the chair of the policy group, shall determine whether there is an immediate threat to life, public health, safety, or community welfare sufficient to warrant removal of said debris on private property in accordance with one or more of the following criteria:~~

~~(1) — There is a substantial likelihood that rescue vehicles will be significantly hindered from rendering emergency services to residential and commercial property should the debris be allowed to remain in place absent county removal.~~

~~(2) — The type of debris may reasonably cause disease, illness, or sickness that could injure or adversely affect the health, safety, or general welfare of those residing and working in the area if it is allowed to remain.~~

~~(3) — The clearing is necessary to effectuate orderly and expeditious restoration of utility services including, but not limited to, power, water, sewer, and telephone.~~

~~(4) — The debris is determined to require removal to eliminate immediate threats of significant damage to improved public or private property.~~

~~(6) — The debris prevents garbage collection creating a public health hazard.~~

~~(7) — The debris contains contaminants that have a reasonable likelihood of leaching into the soil or groundwater.~~

~~(8) — The debris has a substantial negative impact in preventing or adversely affecting emergency repairs to buildings or property.~~

~~(9) — The debris presents a reasonable danger of being transported by wind or water into the surrounding areas of the county increasing the cost of recovery and removal.~~

~~(10) — If left over time, the debris poses a significant likelihood of producing mold that would be injurious to public health.~~

~~(11) — The presence of the debris significantly adversely impacts the county's recovery efforts.~~

~~(12) — The debris significantly interferes with drainage or water runoff, creating a significant hazard in the event of significant rainfall.~~

~~(13) — The sheer volume of the debris is such that it is impractical and unreasonable to remove it in an orderly and efficient manner without action by the county.~~

~~(14) — The type, extent and nature of the debris are such that it would cause much greater damage if the debris was not removed immediately.~~

~~(15) — The clearing of the debris is necessary to ensure the economic recovery of the affected community to the benefit of the community at large.~~

~~(b) — **Priority of removal.**~~

~~(1) — In removing disaster-generated debris in accordance with the DMP, the highest priority shall, initially be given to responding to immediate threats to life, public health, and safety; eliminating immediate threat of significant damage to county property or facilities; and pushing or removing disaster-generated debris from the county rights-of-way to permit safe passage.~~

~~(2) — The removal of disaster-generated debris in accordance with the priorities set forth in subsection (b)(1) shall begin as soon as functionally feasible after the occurrence of a major disaster or catastrophic disaster. The primary operation of the county work forces will be to cut and toss disaster-generated debris, depositing it along the county rights-of-way, thereby creating access to the major arterial roadways to allow for expedited search and rescue efforts as well as recovery efforts. Upon completion of the cut and toss operation, county work forces will begin the removal of other disaster-generated debris. The owners of private property or those individuals otherwise in possession of private property that adjoin county rights-of-way may place disaster-generated debris in the county right-of-way in accordance with the requirements set forth in subsection (b)(4). The community at large will be notified of the initial start date for removal of disaster-generated debris by county work forces and will subsequently be notified prior to the last removal pass by county work forces. After the last such removal pass, county residents will be responsible for the removal of any remaining disaster-generated debris which meets pre-disaster service collection requirements whether they be self-provided, provided through a private contractor, or provided through regular waste disposal services.~~

~~(3) — Upon the resumption of pre-disaster waste collection activities, county residents will be held accountable for the placement of any remaining disaster-generated debris along county rights-of-way and private roads, or on private property, which placement does not meet pre-disaster collection service standards and is found to be not in compliance with this article or with any other county regulation.~~

~~(4) — The removal of disaster-generated debris consisting of either hazardous trees or hazardous limbs on county-owned property and county rights-of-way is authorized only upon the satisfaction of each of the following conditions:~~

~~a. — The damage to the hazardous tree or hazardous limb was the result of the disaster; and~~

~~b. — The hazardous tree or hazardous limb is in danger of falling on a structure or other improvement, on a primary ingress or egress route, or on a county right-of-way.~~

~~(c) — **Removal from private roads.**~~

~~(1) — The authority for county work forces to enter upon a private road for utilization in the DMP is provided by the state through the delegation of emergency management powers to political subdivisions in F.S. § 252.38, and the CEMP adopted pursuant to that authority, and shall in no way be deemed to be a trespass,~~

~~(2) — The removal by county work forces of disaster-generated debris from private roads shall be performed only upon the satisfaction of each of the following conditions:~~

~~a. — The DMP has been implemented in accordance with article;~~

~~b. — A determination has been made pursuant to subsection (a) that such removal is reasonably necessary to eliminate immediate threats to life, public health, and safety or to ensure economic recovery of the affected community to the benefit of the community at large; provided, however, that the highest priority shall initially be given to responding to immediate threats to life, public health, and safety; and~~

~~c. — Any disaster-generated debris removed from a private property has been placed in or adjacent to the private road in accordance with the requirements of this section, unless such requirements have been waived by the county manager or designee.~~

~~(3) — Removal of hazardous trees or hazardous limbs. The removal of disaster-generated debris consisting of either hazardous trees or hazardous limbs overhanging or otherwise endangering a private road shall be deemed to be the responsibility of the adjacent private property owners, and the county work forces shall not be authorized to remove or to otherwise act upon such disaster-generated debris unless it is necessary to eliminate an immediate threat to the safety of county work forces.~~

~~(d) — **Responsibility of private property owners.**~~

~~(1) — The owners of private property, or those individuals otherwise in possession of private property, shall be responsible for assuring that the placement of any disaster-generated debris in county rights-of-way or on private roads for removal by county work forces satisfies each of the following conditions:~~

~~a. — The disaster-generated debris shall be neatly stacked, piled, or placed with its leading edge lying within the three-foot roadside shoulder area on either side of the travel lanes of the road.~~

~~b. — The disaster-generated debris shall be separated into stacks or piles of the following types of debris:~~

~~1. — Putrescent debris and mixed common household items.~~

~~2. — Vegetative debris.~~

~~3. — Construction and demolition debris.~~

~~4. — White goods.~~

~~5. — Hazardous household waste and electronic waste.~~

~~c. — The disaster-generated debris shall be placed so that it does not block the roadway, traffic signs and signals, or stormwater structures.~~

~~d. — The disaster-generated debris shall be placed so that it is not under any power lines, not on top of any water meters, or not within three feet of any power poles, fire hydrants, vehicles, mailboxes, or fences.~~

~~(2) — Any damage to personal property by county work forces resulting from the placement of disaster-generated debris in a manner inconsistent with this section shall be the responsibility of the private property owner, or individual otherwise in possession of private property, who misplaced such debris.~~

~~(3) — Any owners of private property, or any individuals otherwise in possession of private property, who stack, pile, or otherwise place anything for removal on county rights-of-way or on private roads which is deemed not to be disaster-generated debris, shall be responsible for removing such unauthorized debris no later than 24 hours after notification of such removal requirement by a member of the county work forces. Any such owner or other individual who fails to timely comply with such removal requirement shall thereafter be responsible for any costs associated with the removal of such unauthorized debris by county work forces.~~

~~(Ord. No. 2016-001E, § 4, 11-3-16; Ord. No. 2017-20E, § 2, 9-7-17)~~

~~Sec. 94-333. Federal reimbursement.~~

~~(a) — With regard to the eligibility for federal funding, the Federal Emergency Management Agency (FEMA) may waive the requirement for the county to establish the criteria listed in section 94-332 above as a condition precedent to county action depending on the severity of the situation.~~

~~(b) — The county acknowledges that commercial property debris removal is generally ineligible for reimbursement under the Public Assistance Program unless determined to be in the public interest and subject to the other private property provisions as defined in FEMA's Disaster Assistance Policy for Debris Removal from Private Property guidance document, as amended from time to time, and that reimbursement for non-commercial private property debris removal is discretionary with FEMA.~~

~~(c) — Upon approval of a request for federal funding for debris removal from private property by FEMA's federal coordinating officer, the county will comply with all mandates for Section 407 of the Stafford Act as a condition of reimbursement.~~

~~(Ord. No. 2016-001E, § 5, 11-3-16)~~

~~Sec. 94-334. Indemnification and hold harmless.~~

~~(a) — In consideration for and as a condition of removing debris from private property, the county may require the owner of such private property to indemnify and hold harmless the county, the State of Florida, and the United States, and their officers, agents, employees and contractors from any claims arising from removal of debris from private property.~~

~~(b) — As a part of any request for federal funding for debris removal from private property, the county agrees to indemnify and hold harmless, to the extent allowed by F.S. 768.28, the United States, its officers, agents, employees and contractors from any claims arising from the county's negligence in the removal of debris from private property. Nothing in this article shall be construed as a waiver of the county's sovereign immunity beyond that allowed by state law and the Florida Constitution.~~

~~(Ord. No. 2016-001E, § 6, 11-3-16)~~

~~Sec. 94-335. Emergency roadway clearance.~~

~~Nothing herein shall limit the county, within the first 70 hours after the declaration of a disaster emergency, from clearing and pushing debris from all streets, both public and private, as necessary to ensure access necessary for the movement of emergency vehicles, including police, fire, rescue and public utilities.~~

~~(Ord. No. 2016-001E, § 7, 11-3-16)~~

~~Sec. 94-336. No requirement to remove debris from private property.~~

~~Nothing in this article shall be construed to require the county to remove debris from private property except where the severity of the situation is of such magnitude or the debris is so widespread that it is determined by the board or, pursuant to the Brevard County Comprehensive Emergency Management Plan, the chair of the policy group, to be a significant, immediate threat to life, health and safety, the welfare of the county, and in the overriding public interest of the county to remove debris from such areas as set forth in this article.~~

~~(Ord. No. 2016-001E, § 8, 11-3-16)~~

SECTION 61. 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 62. 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 63. 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 64. 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 9th day of July, 2024.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

Jason Steele, Chair
As approved by the Board on July 9, 2024

Reviewed for legal form and content:

Justin E. Caron, Assistant County Attorney