

BOARD RECORDS
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ORDINANCE NO. 2003-092

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE AND THE COLLECTION, PROCESSING AND MARKETING OF RECYCLABLE MATERIALS; AMENDING ORDINANCE NO. 2003-059, TO BE CODIFIED AS ARTICLE II OF CHAPTER 106 OF THE SARASOTA COUNTY CODE (THE "CODE"); AMENDING SECTION 2 OF ORDINANCE NO. 2003-059, TO BE CODIFIED AS SECTION 106-31 OF THE CODE RELATING TO FINDINGS; AMENDING SECTION 7 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-36 OF THE CODE RELATING TO DEFINITIONS; AMENDING SECTION 8 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-37 OF THE CODE RELATING TO RECYCLING GOALS AND RESPONSIBILITIES OF SOLID WASTE MANAGEMENT; AMENDING SECTION 9 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-38 OF THE CODE RELATING TO MANDATORY SOLID WASTE SERVICE DISTRICTS AS MUNICIPAL SERVICE BENEFIT UNITS; AMENDING SECTION 10 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-39 OF THE CODE RELATING TO THE ADVISORY BOARD; AMENDING SECTION 11 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-40 OF THE CODE RELATING TO GENERAL POWERS OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 12 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-41 OF THE CODE RELATING TO DESCRIPTION OF SERVICE; AMENDING SECTION 15 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-44 OF THE CODE RELATING TO RESPONSIBILITIES OF THE AUTHORIZED COLLECTORS; AMENDING SECTION 16 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-45 OF THE CODE RELATING TO RESPONSIBILITIES OF ALL HAULERS; AMENDING SECTION 17 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-46 OF THE CODE RELATING TO RESIDENTIAL CUSTOMER CLASSIFICATIONS; AMENDING SECTION 18 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-47 OF THE CODE RELATING TO RESPONSIBILITIES OF THE CUSTOMERS; AMENDING SECTION 19 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-48 OF THE CODE RELATING TO RESPONSIBILITIES OF THE COUNTY; AMENDING SECTION 21 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-50 OF THE CODE RELATING TO COMPLAINTS; AMENDING SECTION 25 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-54 OF THE CODE RELATING TO

DAVID E. RUSHING
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

UNLAWFUL DISPOSAL OF SOLID WASTE; AMENDING SECTION 28 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-57 OF THE CODE RELATING TO TERMINATION OF FRANCHISE; AMENDING SECTION 29 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-58 OF THE CODE RELATING TO MISCELLANEOUS PROVISIONS; AMENDING SECTION 31 OF ORDINANCE NO. 2003-059 TO BE CODIFIED AS SECTION 106-60 OF THE CODE RELATING TO ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AMENDING EXHIBITS "A" AND "B", PROVIDING LEGAL DESCRIPTIONS OF THE SOLID WASTE SERVICE DISTRICTS.

SECTION 1. Articles II and III of Chapter 106 of the Sarasota County Code (the "Code") are hereby repealed in their entirety and replaced by the following.

SECTION 2. Section 106.31 of the Code is hereby created to read as follows

SECTION 106-31. FINDINGS

- (a) The Board of County Commissioners of Sarasota County (the "Board") is authorized pursuant to Section 125.01(1), Florida Statutes, as may be amended from time to time, Article VIII Section 1 of the Florida Constitution and the Sarasota County Charter to carry on County Government, and to enact regulations to promote the public health, safety, and general welfare of the citizens of Sarasota County; to adopt ordinances and resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violation of ordinances in accordance with law; and to perform any acts not inconsistent with law, which are in the common interest of the people of the County, and to exercise all powers and privileges not specifically prohibited by law.
- (b) Section 125.01(1)(k) and Chapter 403, Florida Statutes, as may be amended from time to time, grant the Board the authority to regulate Solid Waste Collection and disposal.
- (c) Pursuant to Chapter 403, Florida Statutes, local governments are authorized to enact ordinances to establish county Recycling programs for the separation, collecting and marketing of Recyclable Materials and to insure the safe and lawful disposition of such wastes and to meet the goals established by the State of Florida to protect health, safety, and welfare of the citizens of Sarasota County.
- (d) Section 4.1, Sarasota County Charter requires the establishment of a Mandatory Recycling Program for all Residential and Commercial Customers of the unincorporated area of Sarasota County.
- (e) It is essential to the health, safety and welfare of the County's inhabitants within the densely populated areas that Solid Waste, Program Recyclables,

and Yard Trash Collection and disposal and/or Processing be regulated in such a manner that Persons accumulating and generating Solid Waste, Program Recyclables and Yard Trash do so under a County mandatory system to insure the safe and lawful disposition of such wastes.

- (f) The Board has initiated and implemented a comprehensive Mandatory Recycling Program.
- (g) The Board finds that in order to enhance the beauty and quality of our environment, conserve and recycle our natural resources, reduce the impacts of Solid Waste contributing to global warming, prevent the spread of disease and the creation of nuisances, protect the public health, safety and welfare, and provide for comprehensive waste reduction programs, it is necessary to regulate the Collection and Processing of Recyclable Materials.
- (h) The United States EPA has established that Source Reduction is the preferred method of integrated waste management, followed, in descending order, by Recycling, Composting, combustion and landfilling.
- (i) Inefficient and improper methods of handling Recyclable Materials create a hazard to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.
- (j) Source Reduction is a cost effective waste management approach that encompasses environmentally-sound products and packaging, consumer education and reuse of products and materials in their original form.
- (k) Recycling, including Composting, can reduce the depletion of landfill space, save energy and natural resources, provide useful products, and prove economically beneficial.
- (l) Landfilling is a viable component of a waste management system for the management of non-Recyclable Materials and Solid Waste.
- (m) The burying or burning of waste destroys non-renewable resources and adds to the energy needed to produce new products.
- (n) State and local governments can substantially affect the development of recycled material markets by instituting preferred recycled content materials procurement policies.
- (o) That each and every parcel of improved Residential Real Property, within Municipal Service Benefit Units provided by this ordinance, which is capable of being occupied, is prima facie evidence that Residential Waste is capable of being produced and accumulated upon such properties, and such property will be, therefore, specially benefited by mandatory Residential Waste Collection Services operated under authority of the County by and through the creation of Municipal Service Benefit Units.
- (p) The production and generation of Commercial Waste by Commercial Customers varies from one property to another; Commercial Customers

cannot be made entirely the subject of Special Assessments and require a determination of Rates for Commercial Waste Collection and disposal and/or Processing different from that imposed upon Residential Customers, within Municipal Service Benefit Units provided by this ordinance.

- (q) The Courts of the State of Florida have determined that levies of Rates for Garbage and Waste Collection and disposal, and Recycling Collection, Processing and marketing, similar to those levied herein by Sarasota County are and can be levied as Special Assessments.
- (r) Sarasota County has determined that the most appropriate method to finance Residential Waste Collection and marketing of Program Recyclables is to levy Special Assessments against residential units.
- (s) There is a valid distinction regarding cost of service between types of residential properties due to differences in the quantity of Residential Waste generated, typical occupancy levels and methods of Collection. The different classes of Residential Customers are based on these distinctions. This basis is not unreasonable or discriminatory. Studies have shown that certain properties generate a higher quantity of Solid Waste, Program Recyclables and Yard Trash, have a higher year-round occupancy level, utilize individual Collection containers (Curbside Containers) and are primarily single family residences. For purposes of this Ordinance, these properties are designated Class I Customer. A second group of properties has been shown to generate a lower quantity of Solid Waste, Program Recyclables and Yard Trash, have on the average a lower year-round occupancy level, utilize mechanically serviced containers (Class II Containers and Class II Recycling Containers) as well as individual Collection containers and are primarily multiple family or higher density residential properties. These properties include, but are not limited to, condominium units, apartment buildings, mobile homes, mobile home parks, and cooperatives and shall be designated Class II Customer.
- (t) It is necessary for the Board to establish two (2) Municipal Service Benefit Units ("MSBUs") and Solid Waste Service Districts for Residential Waste and Recyclable Materials Collection in the unincorporated area of the County for the purposes of funding the Collection from Special Assessments .
- (u) Sarasota County has determined that the most appropriate method to finance Solid Waste and Yard Trash Collection for Commercial Customers is by individual contractual agreements between the Commercial Customers and the Franchisee, at not-to-exceed Rates approved by the Board.

- (v) The Special Assessment imposed upon improved Residential Real Property is intended to cover the costs of providing Residential Waste Collection, including disposal and/or Processing costs, department administration, other Solid Waste programs and the cost of administering the Solid Waste Service Districts.
- (w) Collection and disposal of Residential Waste and Commercial Waste within Solid Waste Service Districts A and B is provided by two separate Franchises.
- (x) The cost of service as among residential properties designated as Class I Customers within Solid Waste Service Districts A and B is substantially similar.
- (y) The cost of service as among residential properties designated as Class II Customers within Solid Waste Service Districts A and B is substantially similar.
- (z) The reduction of dumping of Solid Wastes, Yard Trash and Program Recyclables in and upon private properties results in a benefit accruing to each parcel of Improved Real Property within the Municipal Service Benefit Units by providing a clean, safe and healthy environment for the present and prospective occupants of such property and surrounding properties.
- (aa) The Board has determined that it is necessary to revise and update existing Garbage Collection and disposal policies, and to develop a comprehensive Solid Waste and Recyclable Materials regulatory ordinance to ensure that Solid Waste and Recyclable Materials Collection is conducted in an efficient manner that protects the aesthetic and environmental concerns of the community.

SECTION 3. Section 106-32 of the Code is hereby created to read as follows:

SECTION 106-32. INTENT

This Ordinance applies to all Residential Customers and Commercial Customers, Haulers, and Generators of Solid Waste and Recyclable Materials in unincorporated Sarasota County. It is the intent and purpose of this Ordinance:

- (a) To regulate the accumulation, storage, collection and disposal of Solid Waste; and;
- (b) To regulate Solid Waste Disposal Sites in the unincorporated areas of Sarasota County;
- (c) To provide mandatory utilization of a Solid Waste Collection and disposal system for Residential and Commercial Customers. Residential Waste

and Commercial Waste is to be handled in the unincorporated County by the creation of Municipal Service Benefit Units in such areas;

- (d) To establish four categories of Recyclable Materials: Program Recyclables; Recyclable Construction and Demolition (C&D) Debris; Yard Trash; and Additional Recyclables, each category as defined herein;
- (e) To implement a Mandatory Recycling Program for unincorporated areas of Sarasota County which provides for Residential Customer Collection of Program Recyclables; which mandates and regulates the Recycling of Construction and Demolition Debris, which mandates and regulates the Recycling of Yard Trash generated by Commercial Lawn Care Services, and encourages the Recycling of Additional Recyclable Materials. The County retains the right and ability to designate any portion of the Waste Stream as a Recyclable Material or as an Additional Recyclable Material, including but not limited to such items as food waste, various electronic equipment, carpeting, carpet pad, and drywall;
- (f) To establish and maintain a Sarasota County Source Reduction/Recycling goal of sixty percent (60%) by weight; and
- (g) To develop principles and methodologies of sustainable stewardship throughout the County on an ongoing basis.

SECTION 4. Section 106-33 of the Code is hereby created to read as follows:

SECTION 106-33. TITLE

This Ordinance may be cited as the Sarasota County Solid Waste and Recyclable Materials Collection Ordinance.

SECTION 5. Section 106-34 of the Code is hereby created to read as follows:

SECTION 106-34. APPLICABILITY

The Residential Waste and Commercial Waste Collection provisions of this ordinance are applicable solely within unincorporated Sarasota County; other provisions of this Ordinance such as Hazardous Waste and Litter are applicable in unincorporated Sarasota County and are permissive in municipalities within Sarasota County.

SECTION 6. Section 106-35 of the Code is hereby created to read as follows:

SECTION 106-35. CONSTRUCTION AND INTERPRETATION

This Ordinance shall be liberally construed in order to effectively carry out the intent and purpose of the Ordinance. Where any provision of this Ordinance refers to or incorporates another provision, statute, rule, regulations or other

authority, it refers to the most current version, incorporating any amendments thereto or renumbering thereof.

SECTION 7. Section 106-36 of the Code is hereby created to read as follows:

SECTION 106-36. DEFINITIONS

All definitions contained in this section shall be consistent with definitions contained within the Florida Statutes, as amended from time to time. In case of any conflict with definitions contained in Florida Statutes, the statutory definition shall apply. The following definitions shall be applicable to this Ordinance, all rules promulgated hereunder, and contracts issued hereunder, unless a different meaning is specifically indicated in the text.

- (a) *Audited Financial Statement* means a collection of the following as they are defined by the American Institute of Certified Public Accountants: accountants' report (opinion), balance sheet, profit/loss statement, changes in financial position/cash flow statement, notes to the financial statement, accountants' report on supplemental information and supplemental information.
- (b) *Authorized Collector* means a Person to whom a temporary exemption has been granted pursuant to this Ordinance for the Collection of his/its own Solid Waste.
- (c) *Biological Waste* means those wastes that cause or have the capability of causing disease or infection and includes, but is not limited to, Biomedical Waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. This term does not include human remains that are disposed of by Persons licensed under Chapter 470, Florida Statutes.
- (d) *Biomedical Waste* means any solid or liquid waste which may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. The following are also included: (a) Used, absorbent materials saturated with blood, blood products, body fluids, or excretions or secretions contaminated with visible blood; and absorbent materials saturated with blood or blood products that have dried. (b) Non-absorbent, disposable devices that have been contaminated with blood, body fluids, or secretions or excretions visibly contaminated with blood, but have not been treated by an approved method.

- (e) *Board* means the Board of County Commissioners of Sarasota County, Florida.
- (f) *Broker* means a Person that will accept a Recyclable Material in the quantities generated by the County to be sold, or ultimately transferred to an End-User.
- (g) *Bulk Waste* means all large household items that do not require extraordinary management, and are not covered by the definitions for White Goods and Computers and Electronic Equipment including, but not limited to, sofas, tables, bathroom fixtures, bedroom and living room furniture, appliances not considered White Goods, ladders, carpet; These items shall be placed within three (3) feet from a public or private way for Collection.
- (h) *Certificate of Occupancy* means a document produced by the County certifying that a newly constructed building has been constructed in compliance with County specifications, and is suitable for use.
- (i) *Class II Container* means any container including, but not limited to, dumpster, roll-off, or compaction equipment, approved by the County to be used for the Collection of Solid Waste or Yard Trash from any Class II Customer utilizing dumpster, roll-off or compaction Collection Service. Solid Waste and Yard Trash shall not be commingled in the same container.
- (j) *Class II Recycling Container* means any container including but not limited to, dumpster, roll-off, compaction equipment, or rhino box, authorized and approved by the County to be used for the Collection of Program Recyclables from Class II Customers utilizing dumpster, roll-off, rhino box or compaction equipment for said Collection Service. Plastic bags shall not be used in lieu of or within Class II Recycling Containers.
- (k) *Class I Customer* means single family, duplex, triplex, and quadruplex Dwelling Units; apartments with 2-9 Dwelling Units, residential combination (residence plus commercial), and retirement homes that do not have commercial kitchens and contain 2-9 Dwelling Units located within Service District (A) (B).

- (l) *Class II Customer* means mobile homes, recreational vehicles, condominiums, cooperatives, apartment buildings with 10 or more Dwelling Units, retirement homes with 10 or more Dwelling Units and each unit has a separate cooking facility/kitchen, time share apartments, mobile home parks including lots for mobile homes and recreational vehicles located within Service District (A)(B).
- (m) *Clerk* means the Clerk to the Board of County Commissioners or the minutes Clerk assigned to the Solid Waste Service Districts.
- (n) *Code Enforcement* means that part of Solid Waste Management that is responsible for enforcement of provisions of this Ordinance.
- (o) *Code Enforcement Officers* means certain designated employees of Sarasota County Government and sworn Deputy Sheriff Officers of the Sarasota County Sheriff's Office empowered to inspect any container to ensure compliance with this Ordinance and are empowered to cite violators under this Ordinance.
- (p) *Collection* means the process of picking up, transporting, and dropping off Residential Waste and Commercial Waste at the Designated Disposal Site or Designated RMPF, or the process of picking up, transporting, and dropping off Exempt Materials to an appropriate Disposal Site or Recycling Facility.
- (q) *Collection Containers* means Curbside Containers, Class II Containers, Roll Carts, Commercial Containers, Recycling Bins, Recycling Carts, Class II Recycling Containers, and/or Commercial Recycling Containers.
- (r) *Collection Services* means Residential Collection Service and/or Commercial Collection Service.
- (s) *Commercial Activity* means any activity which involves the exchange or sale of commodities or services.
- (t) *Commercial Collection Service* means the Collection of Commercial Waste using Commercial Containers, Curbside Containers, or Roll Carts, and may include Commercial Customer Recyclable Materials Collection if said service is contracted between the Franchisee and Customer.
- (u) *Commercial Container* means any container including, but not limited to, dumpster, roll-off, or compaction equipment, approved by the Executive Director to be used for the Collection of Solid Waste or Yard Trash from any Commercial Customer utilizing dumpster, roll-off or compaction Collection Service. Solid Waste and Yard Trash and Program Recyclables shall not be commingled in the same container.
- (v) *Commercial Customer* means a Person using Commercial Real Property or Industrial Real Property, located within the Service Area, primarily for commerce, including but not limited to hotels, motels, free-standing

recreational vehicle parks, governmental entities, churches, hospitals, schools and not-for-profit corporations. This classification shall not include commercially zoned property which is used primarily for residential purposes. Vacant lands, not classified as Improved Real Property, shall be deemed commercial Improved Real Property.

- (w) *Commercial Lawn Care Service* means the business of lawn and garden maintenance for remuneration. This definition includes landscapers.
- (x) *Commercial Real Property* means real property not classified as residential, including property used primarily for commerce including but not limited to hotels, motels, free-standing recreational vehicle parks, governmental entities, churches, hospitals, schools and not-for-profit corporations. This classification shall not include commercially zoned property that is used primarily for residential purposes. Vacant lands, not classified as Improved Real Property, shall be deemed as Commercial Real Property.
- (y) *Commercial Recycling Container* means any container including but not limited to, dumpster, roll-off, compaction equipment, or rhino box, authorized and approved by the Executive Director to be used for the Collection of Program Recyclables from Commercial Customers utilizing dumpster, roll-off, rhino box or compaction equipment Collection Service. Plastic bags shall not be used in lieu of or within Commercial Containers.
- (z) *Commercial Supplemental Collection Services* means services provided by the Franchisee to Commercial Customers which are not included in the Commercial Collection Service Rate, including, but not limited to, extra or special Collection, gate service, roll-out service, unusual Commercial Customer requirements, Customer owned Commercial Container maintenance, container modification, roll-off service, or locking devices.
- (aa) *Commercial Waste* means Solid Waste and Yard Trash, as defined herein, generated upon Commercial and Industrial Real Property.
- (bb) *Composting* means the controlled biological decomposition of organic Solid Waste, food and paper waste, and Yard Trash carried out under controlled conditions which stabilize the organic fraction of waste into a material which can easily and safely be stored, handled and used in an environmentally acceptable manner for soil, growing medium, or other similar uses. Simple exposure of Solid Waste under uncontrolled conditions resulting in natural decay, public nuisances, or conditions adversely affecting the environment or public is not Composting. Composting activities shall not violate the provisions of other state or local laws, ordinances, rules, regulations, or orders.
- (cc) *Computers and Electronic Equipment* means, but is not limited to, computers, monitors, televisions, cathode ray tubes, printers, scanners, and fax machines. Other equipment may be added to this list upon agreement between the County and the Franchisee.

- (dd) *Construction and Demolition (C&D) Debris* means materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum, wallboard, and untreated lumber, resulting from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition site. De minimis amounts of Solid Waste may be included with C&D Debris.
- (ee) *Construction and Demolition (C&D) Debris Hauler* means any Person who is a Private Hauler, or Commercial Customer who collects and transports C&D Debris from the site of generation or from a transfer point.
- (ff) *Construction and Demolition (C&D) Debris Recycling Facility* means any facility located in unincorporated Sarasota County that provides evidence that it recycles at least 50% by weight of the Recyclable C&D Debris delivered to the facility. Such evidence includes, but is not limited to, ongoing recovery activity, stockpiling temporarily for the purpose of shipping, receipts, separation and storage of useable/marketable material.
- (gg) *County* means the unincorporated areas of Sarasota County, Florida; County government, its officers, agents and employees.
- (hh) *Curbside* means placement of Solid Waste, Yard Trash, or Program Recyclables within three (3) feet of the curb line or paving line of the nearest street, or in the case of a drainage ditch, at a point within said dimensions adjacent to the nearest driveway.
- (ii) *Curbside Container* means 1) a metal container with a tight fitting lid, with or without wheels; 2) a durable plastic container with a tight fitting lid, with or without wheels; 3) a plastic bag sufficient in strength for handling by the Franchisee so long as they are closed and unbroken at the time of Collection. Said containers shall be authorized and approved by the Executive Director to be used for the Collection of Solid Waste or Yard Trash from any Class I Customer, or eligible Class II Customer utilizing Curbside Collection Service. Each individual Curbside Container filled with Solid Waste or Yard Trash shall not exceed forty (40) pounds in weight. Solid Waste and Yard Trash shall not be commingled in the same containers.
- (jj) *Customer* means any Person defined as a Commercial Customer or as a Residential Customer. Whether or not a Person is a Commercial Customer or a Residential Customer depends upon the context of the section in which the word appears.
- (kk) *Designated Disposal Site* means the Central County Solid Waste Disposal Complex (CCSWDC), or other Disposal Site as designated by the County.

- (ll) *Designated Recyclable Materials Processing Facility (RMPF)* means a facility devoted solely to the storage, Processing, resale, or reuse of Recyclable Materials which has been selected by the Board to receive, process, and market Program Recyclables, or a transfer station or other site designated by the County to be used as a consolidation point for Program Recyclables, collected by the Franchisee on behalf of the County.
- (mm) *Designated Site(s)* means any real property set aside or authorized by the Board for the receipt of Residential Waste, or Commercial Waste. This term encompasses the terms Designated Disposal Site and Designated RMPF.
- (nn) *Disposal Site(s)* means any real property set aside or authorized by the Board for the receipt of Solid Waste, including, but not limited to, Landfill and transfer station(s).
- (oo) *Drop-off Charge* means the fee charged for the deposit and disposal or Processing of Residential Waste or Commercial Waste at the Designated Site(s).
- (pp) *Dwelling Unit* means a room or rooms constituting a separate, independent establishment with cooking facilities/kitchen, a separate entrance, and bathroom facilities; and physically separated from any other rooms or Dwelling Units which may be in the same structure or in separate structures.
- (qq) *End-User* means a Person who reuses Recyclable Materials as a raw material or in the manufacture of a product. This term shall also include a Person who provides for the conversion of Clean Wood Waste to clean-burning fuel for the production of energy for use at facilities other than a waste-to-energy facility as defined in Section 403.7895, Florida Statutes.
- (rr) *Executive Director* means the County Administrator or designee.
- (ss) *Extraordinary Wastes* means wastes that require extraordinary management, including, but not limited to, abandoned automobiles, boats, tree trunks greater than four (4) feet in length, sixteen (16) inches in diameter and forty (40) pounds in weight, dead animals, agricultural and industrial wastes, Bio-Medical, Biological, Radiological Wastes, and Hazardous Wastes.
- (tt) *Fees* means amounts billed for services not covered by Rates.
- (uu) *Franchise Agreement (Agreement)* means the written authority granted by the Board to a Person to engage in Collection Services.
- (vv) *Franchisee* means the holder of written authority granted by the Board to engage in Collection Services.
- (ww) *Front Yard* means the yard area extending from the main entrance of the Premises to the right-of-way in front of the property.

- (xx) *Garbage* means all kitchen and table food waste, animal or vegetative waste that is attendant with or results from the storage, preparation, cooking or handling of food materials, and is included in the definition of Solid Waste.
- (yy) *Hauler* means a C&D Debris Hauler, a Franchisee, a Private Hauler, a Commercial Lawn Care Service, or any combination thereof, depending upon the context of the section in which the word appears.
- (zz) *Hazardous Waste* refers to Solid Waste, or a combination of Solid Wastes, which because of its quantity, concentration, physical, or chemical characteristics may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, treated, or otherwise managed and any material or substance identified in the Florida Administrative Code Rule 62-730 and 40 Code of Federal Regulation, Part 261.
- (aaa) *Holiday* means New Year's Day, Independence Day, Thanksgiving Day, Christmas Day, or any other holiday as approved by the Executive Director.
- (bbb) *Improved Real Property* means any cleared, graded or drained real property upon which a building or structure has been erected which is occupied or capable of being occupied for Residential, Commercial, or Industrial use; recreational vehicle park lots contained within parks designated as mobile home parks by County Health.
- (ccc) *Industrial Real Property* means a place, building or enterprise engaged in the manufacturing or the Processing of raw materials or alteration or modification of a product for the purpose of producing a usable or finished product, having commercial waste as a by product.
- (ddd) *Land Clearing Debris* means the uprooted or cleared vegetation resulting from a land clearing operation and does not include Yard Trash.
- (eee) *Landfill* means the places specifically designated by the Board and permitted by the state for the disposal of Solid Waste or Sludge.
- (fff) *Landfill Disposal Cost* means the sum of the current Landfill Tipping Fee (addressing the cost of Landfill operations) and any Surcharges assessed for new Landfill development or Landfill closure.
- (ggg) *Legitimate Complaint* means any complaint where the provisions herein, or in the Franchise Agreement, regulating Solid Waste, Program Recyclables, or Yard Trash Collection were adhered to by the Customer and the Franchisee did not perform in accordance with such provisions.
- (hhh) *Litter* means any Garbage, rubbish, trash, refuse, can, bottle, box, container, paper, tobacco product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor

vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, Sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

- (iii) *Load* means material, including but not limited to Solid Waste, Program Recyclables, C&D Debris, and Yard Trash, on a vehicle, transported from one point to another.
- (jjj) *Mandatory Recycling Program* means all aspects of the Collection, transportation, Processing, marketing or other handling or aspect of Program Recyclables, Recyclable Construction and Demolition Debris and Yard Trash, as well as education, technical projects, compliance monitoring, and enforcement as defined by Solid Waste Management.
- (kkk) *Mulch* means a protective soil covering spread or left on the ground to help retain moisture longer in the soil by retarding evaporation; to discourage weed growth; to help maintain a constant winter and summer temperature by insulating the soil; or to discourage water runoff and soil erosion by shielding the soil surface from water abrasion and promoting water absorption and retention. The process of making Mulch is called Mulching and is considered a form of Recycling Processing.
- (lll) *Municipal Service Benefit Unit(s) (MSBU)* means the mechanism within the Solid Waste Service District for assessing Residential Customer Collection Rates.
- (mmm) *Non-Conforming Material* means any material placed into a Recycling Container not included in the definition of Recyclable Materials.
- (nnn) *Person* means any and all Persons, natural or artificial, including any individual, firm or association; any municipal or private corporation organized or existing under the laws of Florida or any other State; any county of the State; and any governmental agency of this State or the Federal Government.
- (ooo) *Premises* refer to Improved Real Property, as defined herein.
- (ppp) *Prescribed Burning* means the controlled application of fire to naturally occurring vegetative matter under specified environmental conditions, and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and which accomplishes planned land management objectives including fires for wildlife management.
- (qqq) *Private Hauler* means any business entity or Person engaged in the business of collecting and transporting Commercial Recyclable Materials in the County of Sarasota.
- (rrr) *Processing* means any technique designed to change the physical or chemical character or composition of any Recyclable Material so as to render it amendable to recovery, storage or Recycling or safe for disposal,

or reduced in volume or concentration. In the case of Yard Trash the term Processing means Mulching and/or Composting.

- (sss) *Radiological Waste or Radioactive Waste* refers to any equipment or materials which are radioactive or have radioactive contamination and which are required pursuant to any governing laws, regulations, or licenses to be stored, treated, or disposed of as radioactive waste or radiological waste and means radioactive waste as further defined in Section 404.031(14), Florida Statutes. Requirements for handling such wastes shall be in accordance with Chapters 64E-4 and 64E-5, Florida Administrative Code.
- (ttt) *Rates* means Board approved amounts to be charged by the Franchisee for Residential Collection Services, for contracted Commercial Collection Services, or for Supplemental Collection Services.
- (uuu) *Rear Door Service* means any physical location for the placement of Collection Containers on the Residential Customer's property intended for Curbside Collection that is not at the Curbside.
- (vvv) *Recovered Material* means, but is not limited to: metal, paper, glass, plastic, textile, or rubber materials that have known Recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the Waste Stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent Processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Recyclable Materials may also be Recovered Materials.
- (www) *Recovered Materials Processing Facility (RMPF)* means a facility engaged solely in the storage, Processing, resale, or reuse of Recovered Materials. Such a facility is not a Solid Waste management facility if it meets the conditions of Section 403.7045(1) (f), Florida Statutes.
- (xxx) *Recyclable Materials* means those materials which are capable of being recycled including:
 - (1) *Additional Recyclable Materials* means materials that should be recycled, but are not part of the Mandatory Recycling Program, including but not limited to: lead acid batteries, household batteries, Scrap Metals, latex paint, paperboard, carpeting, carpet pad, food waste, drywall and textiles.
 - (2) *Clean Wood Waste* means C&D Debris from Commercial Customers which is capable of being processed into Mulch, including wood pallets, wood construction materials, (except chromated copper arsenate pressure treated wood) and including Land Clearing Debris such as branches, trees and Yard Trash.

- (3) *Recyclable Construction and Demolition (C&D) Debris* means Debris from Commercial Customers which is capable of being economically Recycled, including, but not limited to, wood pallets, wood construction materials, Scrap Metal and concrete, brick, or asphalt which can be effectively processed for Recycling. Recyclable Construction and Demolition Debris shall not include Land Clearing Debris. For purposes of this subsection, C&D Debris shall be considered capable of being economically recycled, if the Processing, shipping and incremental costs associated with the Collection of Recyclable C&D Debris do not exceed the sum of the price a Broker or End-User will pay for the Recyclable C&D Debris.
- (4) *Program Recyclables* means Container and Paper Program Recyclables that have been designated by the Board as mandatory Recyclable Materials for Residential and Commercial Customers, including the following:
- a. *Container Program Recyclables* means the various container categories defined below:
 1. *Aluminum Cans* means used beverage containers.
 2. *Aluminum Foil* means aluminum sheets or wrapping, clean of food, commonly used in food preparation or storage whether in sheets or formed (such as food trays) into flexible containers.
 3. *Glass* means any food or beverage container constructed of glass of any color.
 4. *Plastic Bottles* means the following plastic bottles with a neck, (as coded and labeled on the item by number placed inside a triangle and letters placed below the triangle pursuant to Section 403.708(9), Florida Statutes), as may be amended from time to time: High Density Polyethylene (coded and labeled HDPE, #2) bottles, and Polyethylene Terephthalate (coded and labeled PET, #1) bottles which are any color.
 5. *Polycoated Paper Carton* means aseptic boxes and gable top containers such as juice boxes, brick packs, milk and juice cartons.
 6. *Steel and Tin Cans* means food or beverage containers which consist primarily of ferrous metals, commonly called tin cans and steel jar lids, and empty aerosol containers.
 - b. *Paper Program Recyclables* means the various paper categories defined below:
 1. *Corrugated Cardboard* means cardboard with folded ridges, grooves, or wrinkles placed between flat paper surfaces and

commonly used for cartons or boxes. Liners consist of Kraft, jute or test liner. All corrugated cardboard shall be flattened and either cut down to size, no more than 2 feet by 3 feet. Staples and tape with water soluble glues do not have to be removed. Wax-coated and oriental corrugated cardboard are not acceptable.

2. *High Grade and other Mixed* means magazines and catalogs composed of glossy paper, telephone books, white or colored bond paper, book paper, computer paper, cotton fiber content paper, duplicator paper, form bond, manifold business forms, mimeo paper, office paper, printing paper, stationery, writing paper, photocopy or copy machine paper, laser paper, paper envelopes with or without plastic windows, carbonless (NCR) paper, brown Kraft paper, paper grocery bags, tabulating cards, facsimile paper, and manila folders, but excludes paper coated or contaminated with metallics, plastic, wax, carbon, ammonia or non-soluble glue.
3. *Newspaper* means dry, newsprint including advertising inserts delivered in the newspaper, but excluding aged, yellowed, sunburned paper or water saturated paper. Plastic sleeves shall be removed from newspaper before they are placed in the Recycling Container.

(yyy) (Both Definitions Moved) *Recycling* means any process, including Composting and Mulching, in which Solid Waste, or materials which would otherwise become Solid Waste, are collected, separated, processed and reused or returned to use in the form of raw materials or products.

(zzz) *Recycling Bin* means eighteen (18) gallon red and blue bins stenciled or hot stamped with information authorized and approved by the County for the Collection of Program Recyclables from Class I Customers, and eligible Class II Customers utilizing Curbside Program Recyclables Collection Service. Plastic bags shall not be used in lieu of or within Recycling Bins.

(aaaa) *Recycling Cart* means any container authorized and approved by the County for the Collection of Program Recyclables, including toter containers, for the Collection of Program Recyclables from Class II Customers and/or Commercial Customers utilizing such Program Recyclables Collection Service. Plastic bags shall not be used in lieu of or within Recycling Carts.

(bbbb) *Recycling Container* means any container authorized and approved by the County for the Collection of Recyclable Materials, including but not limited to, Recycling Bins, carts, dumpsters, and roll-offs. This term encompasses the terms Recycling Bin, Recycling Cart, Class II Recycling Containers and Commercial Recycling Container.

- (cccc) *Recycling Facility* means any business which recycles materials as defined herein and includes but is not limited to buy back centers, drop-off centers (both permanent and mobile), and Recovered Materials Processing Facilities (RMPF).
- (dddd) *Residential Collection Service* means the Collection of Residential Waste from Residential Customers.
- (eeee) *Residential Customer* means a Person who occupies Residential Real Property, including, but not limited to, single family residences; duplex apartments; apartment buildings; recreational vehicle lots contained within mobile home parks; recreational vehicles; mobile homes; condominium units; cooperatives established pursuant to Chapter 719, Florida Statutes; time-share apartments; leased residential Premises of the classes described above, whether occupied or not; and Premises occupied as a residence located in or upon commercially zoned real property, provided, however, that where property is used exclusively as a recreational vehicle park, as defined in Section 513.01(10), Florida Statutes, such property shall be deemed commercial. This term encompasses the terms Class I Customer and Class II Customer.
- (ffff) *Residential Real Property* means Improved Real Property including, but not limited to, single family residences; duplex apartments; apartment buildings; recreational vehicle lots contained within mobile home parks (with no separate entrance); recreational vehicles; mobile homes; condominium units; cooperatives established pursuant to Chapter 719, Florida Statutes; time-share apartments; leased residential Premises of the classes described above, whether occupied or not; and Premises occupied as a residence located in or upon commercially zoned real property, provided, however, that where property is used exclusively as a recreational vehicle park, as defined in Section 513.01(10), Florida Statutes, such property shall be deemed commercial.
- (gggg) *Residential Supplemental Collection Services* refers to services provided by the Franchisee that are not included in the Residential Collection Services covered by Special Assessment. Such services include, but are not limited to: a second Solid Waste Collection day, Rear Door Service for non-handicapped Customers; curbside service more than three (3) feet from a public or private way; in-ground container service; bulk or roll-off container maintenance for Customer-owned containers; service for loose Residential Waste not properly prepared; Class II Container, Class II Recycling Container, or roll-off container service required more than basic service (special Collection) including, but not limited to, rescheduled Collections due to Customer negligence (e.g., said containers are overfilled and cannot be safely dumped). Drop-off Charges associated with Residential Supplemental Collection Services are covered by the Special Assessment.

- (hhhh) *Residential Waste* means Solid Waste, Yard Trash, Program Recyclables, Bulk Waste, and White Goods generated upon the Residential Customer's Residential Real Property. Each such material shall be disposed or processed as directed by the County.
- (iii) *Scrap Metal* means discarded materials or items which consist primarily of ferrous metals, aluminum, brass, copper, lead, chromium, tin, or nickel. (Moved from Prior Location)
- (jjj) *Service Area* means Solid Waste Service District A and Solid Waste Service District B, as delineated on Exhibits "A" through "B", as updated as of October 2003, attached hereto and by this reference incorporated herein.
- (kkkk) *Service Category* means designation of service, i.e. Residential Customer: Class I, Class II, and Residential Supplemental Collection Services; Commercial Customer: Commercial Collection Service and Commercial Supplemental Collection Service.
- (lll) *Set Out* means an action, event, or instance comprised of the proper placement of Solid Waste, Program Recyclables, or Yard Trash for Collection at a Customer's Premises, in accordance with County Ordinances.
- (mmmm) *Sludge* means a Solid Waste pollution control residual which is generated by an industrial or domestic wastewater treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilet or related operation, or any other such waste having similar characteristics. Sludge may be a solid, liquid, or semisolid waste but does not include the treated effluent from a wastewater treatment plant.
- (nnnn) *Solid Waste* means Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage, rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations and any additional items which may be defined under Section 403.703(13), Florida Statute.
- (oooo) *Solid Waste Management* means Sarasota County Solid Waste Management or the County entity to which the County Administrator assigns the responsibility of administering this Ordinance.
- (pppp) *Solid Waste Management Citizens Advisory Board (SWMCAB)* means the Citizens Advisory Board as defined by County Resolution and as defined in Section 106-39 herein.
- (qqqq) *Solid Waste Service District* means the designated area for Residential and Commercial Customers as delineated on Exhibits "A" through "B", as

updated as of October 2003, attached hereto and by this reference incorporated herein.

- (rrrr) *Source Reduction* means reduction of the quantity or toxicity of Recyclable Materials actually produced or generated. Activities include, but are not limited to, the design and manufacture of products and packaging with minimum volume and toxic content and with longer useful life, changing buying and consumption habits at the corporate and household levels and the reuse of products and materials in their original form.
- (ssss) *Special Assessment* means Non Ad-Valorem assessment levied upon improved Residential Real Property within unincorporated Sarasota County to provide funding for the Collection and disposal of Solid Waste, the Collection and Processing of Program Recyclables and Yard Trash, along with the funding of other programs managed by Solid Waste Management.
- (tttt) *Special Waste* means Solid Wastes that can require special handling and management, including, but not limited to, White Goods, waste tires, used oil, lead-acid batteries, Construction and Demolition Debris, ash residue, Yard Trash, Biological Wastes, Hazardous Wastes, and Bio Medical Wastes.
- (uuuu) *Supplemental Collection Service* means Residential Supplemental Collection Service and Commercial Supplemental Collection Service.
- (vvvv) *Surcharge* means an amount to be established by resolution of the Board for specific purposes related to Solid Waste programs, disposal or handling of special or specific wastes.
- (wwww) *Tipping Fee* means per ton disposal fee for Landfill and transfer station(s) operations, debt service and closure combined with the Surcharge for Solid Waste at the Landfill or transfer station(s).
- (xxxx) *Unintentional Damage* means damage caused to containers by an act unlikely, in normal circumstances, to have resulted in said damage, including but not limited to, wheels of a container fall off or break when the container is handled in the same manner as other containers of that type.
- (yyyy) *Waste Stream* means Solid Waste, Bulk Waste, White Goods, Computer and Electronic Equipment, Recyclable Materials, Yard Trash, Construction and Demolition Debris, Extraordinary Waste or other discharged solid or semisolid materials, resulting from domestic, residential, commercial, industrial, agricultural, and governmental operations, but does not include Sludge.
- (zzzz) *White Goods* means inoperative or discarded appliances including but not limited to, refrigerators, ranges, washers, clothes dryers, water heaters, freezers, microwave ovens, air conditioners, or other domestic or commercial size appliances.

(aaaaa) *Yard Trash* means vegetative matter resulting from landscaping maintenance, including but not limited to, shrub trimmings, tree trimmings, grass clippings, palm fronds and stumps. Such items collected by Commercial Lawn Service shall not be considered Yard Trash for the purpose of the Agreement. **(Moved from Previous Location)**

(bbbbb) *Yard Trash Recycling Facility* means any facility located within unincorporated Sarasota County that provides evidence that it recycles at least 95% of the Yard Trash delivered to the facility. Such evidence includes but is not limited to, ongoing recovery activity, stockpiling temporarily for the purpose of shipping, receipts, separation and storage of useable/marketable material.

SECTION 8. Section 106-37 of the Code is hereby created to read as follows:

SECTION 106-37. RECYCLING GOALS AND RESPONSIBILITIES OF SOLID WASTE MANAGEMENT

In order to enhance the beauty and quality of our environment, conserve and recycle our natural resources, reduce the impacts of Solid Waste contributing to global warming, develop principles and methodologies of sustainable stewardship, and comply with Federal, State and local Recycling and waste reduction goals and regulations, Solid Waste Management has developed the following goals and responsibilities.

- (a) Solid Waste Management shall develop and implement a multi-faceted Residential and Commercial Customer Source Reduction education awareness program. Typical efforts may include, but are not limited to, approved Composting methods, minimizing Yard Trash, and environmental shopping activities.
- (b) Solid Waste Management shall work closely with private sector (Franchisee and Private Haulers, Recycling Facilities, trade associations, etc.) and the general public to develop and implement a multi-faceted Residential and Commercial Customer Recycling Collection, Processing, marketing, and education/awareness program. Typical efforts may include, but are not limited to, research and development on varied issues, conducting feasibility and technical studies, establishing routine compliance procedures/monitoring guidelines, and continuous community based education/promotional programs, including paid media campaigns, procuring promotional Recycling and/or Source Reduction give-away items, and endorsing/supporting the procurement of recycled content items.
- (c) Upon receipt of notification from the Franchisee of businesses that have no visible means of Recycling, Solid Waste Management may develop a process to increase participation of those businesses in Recycling.

- (d) Solid Waste Management shall provide education and training to Residential Customers in proper Recycling requirements and facilitate the understanding of the Recycling process.
- (e) Solid Waste Management may develop other programs or initiatives that minimize the generation of Solid Waste, such as residential Yard Trash Composting.
- (f) Solid Waste Management in consultation with Class II Customer complex(es) and the Franchisee shall work closely to develop a Recycling Plan customized for each Class II Customer complex as deemed necessary by the Executive Director.
 - (1) Solid Waste Management will ensure the Recycling plan addresses methods of Collection within the complex, Recycling Container types, frequency of pick up, and on-site transport equipment necessary to accomplish the required separation and Collection of Program Recyclables, as well as removal of Non-Conforming Materials and/or Additional Recyclable Materials.
 - (2) The plan may include the designation of a responsible party who may inspect Recycling Containers for Non-Conforming Materials and Additional Recyclable Materials prior to pick up by the Franchisee.
 - (3) The plan may address education of residents on the methods of separation and Collection of Program Recyclables best suited to the particular site as per the requirements of this Ordinance.
 - (4) Solid Waste Management will develop multi-lingual brochures when more than 30 percent of seasonal residents are speakers of language other than English. In such cases, the multi-family unit may request that Solid Waste Management provide them with the brochure in the language most commonly spoken.
- (g) Solid Waste Management shall work with Commercial Customers to promote Commercial Recycling, including but not limited to the following:
 - (1) Solid Waste Management shall regularly conduct business site visits to ensure that Commercial Customers are in compliance with the provisions of this Ordinance.
 - (2) Solid Waste Management may conduct business workshops, work with the local chambers of commerce, business organizations, and others to promote business Recycling.
 - (3) Solid Waste Management may also conduct business recognition programs in cooperation with the private sector and other local governmental entities.
 - (4) Solid Waste Management shall develop Commercial Recycling educational materials and may provide promotional items to be

distributed to the Commercial Customers to re-enforce the goals and provisions of this Ordinance.

- (h) Appropriations and expenditures for educational and promotional purposes to implement the purposes of this Ordinance are declared to be for lawful public purposes.
- (i) Solid Waste Management may implement a volunteer program to provide support for Recycling programs and objectives. Volunteers may be recognized annually for their efforts.
- (j) Solid Waste Management shall promote and educate Customers about the Recycling of Additional Recyclable Materials to help the County meet its Recycling goal.

SECTION 9. Section 106-38 of the Code is hereby created to read as follows:

SECTION 106-38: PROVIDING FOR MANDATORY SOLID WASTE SERVICE DISTRICTS AS MUNICIPAL SERVICE BENEFIT UNITS

Pursuant to the powers granted to the Board by the Florida Constitution and Section 125.01, Florida Statutes, the Board has authorized the establishment of Municipal Service Benefit Units, to be known as Solid Waste Service Districts, which are collectively known as the Service Area, as follows:

- (a) Solid Waste Service District A, in the unincorporated area of Sarasota County, described in Exhibit "A" attached hereto.
- (b) Solid Waste Service District B, in the unincorporated area of Sarasota County, described in Exhibit "B" attached hereto.
- (c) The boundaries of the Municipal Service Benefit Units shall be the unincorporated lands of Sarasota County, Florida as delineated on Exhibits "A" and "B". The boundary of the Solid Waste Service District and its Benefit Unit shall contain those unincorporated lands of Sarasota County as described and incorporated herein.
- (d) Where consistent with the intent of this Ordinance, and where development or other circumstances require, the boundaries of each Solid Waste Service District, may be modified by the Board from time to time. No modification of the boundaries of any Solid Waste Service District may occur until the Board has considered the necessity in a duly advertised public hearing.
- (e) The purpose of each Solid Waste Service District is to promote the common interests of the people of the County and to provide the mandatory Collection of Residential Waste and Commercial Waste. The Residential Collection Service will be provided through the levying of Special Assessments as provided for herein, unless exempt from the mandatory provisions of this Ordinance. Service Rates and Fees will be

established through the adoption of a Franchise Agreement. Further, the purpose is to promote the health, welfare, and safety of the citizens and residents of the Solid Waste Service District by providing adequate Collection of Residential Waste and Commercial Waste.

SECTION 10. Section 106-39 of the Code is hereby created to read as follows:

SECTION 106-39: ADVISORY BOARD

The Board shall appoint a nine (9) member Solid Waste Management Citizens Advisory Board (SWM CAB) to provide recommendations to the Board concerning Recycling and Solid Waste management issues. Insofar as practicable, SWMCAB shall include: a representative from each of the four (4) Sarasota County municipalities, two (2) representatives from unincorporated Sarasota County, and three (3) at large representatives of Sarasota County.

SECTION 11. Section 106-40 of the Code is hereby created to read as follows:

SECTION 106-40. GENERAL POWERS

The Board shall have all the powers necessary or convenient to carry out the purposes of this Ordinance and such additional rights and powers as are provided by the Constitution of the State of Florida and the laws of the State of Florida. The Board shall also have all powers not otherwise prohibited by law, including, but not limited to:

- (a) Power to sue or be sued, complain or defend in the name of the County in any and all courts or administrative agencies;
- (b) Power to acquire by grant, purchase, gift, devise, exchange, or in any other lawful manner any property, real or personal, or any estate or interest therein upon such terms and conditions as the Board shall determine;
- (c) Power to enter into contracts with any qualified private, public, or municipal firm, Person, or corporation for the furnishing of Solid Waste services within the boundaries of the Municipal Service Benefit Unit;
- (d) Power to establish by appropriate resolution any Special Assessment or Service Charge.
- (e) Power to levy and collect, without referendum, Special Assessments, Rates, or Fees as required for the Collection of Residential Waste and Commercial Waste within each Municipal Service Benefit Unit;
- (f) Power to adopt rules and regulations governing the Municipal Service Benefit Units and Solid Waste Service Districts through appropriate resolutions. The Board may provide, by appropriate resolution, the procedures to establish, adjust and approve any Special Assessment or service charge;

- (g) The Board, through a County approved procurement process, may grant or extend franchise(s) to qualified haulers for the exclusive or nonexclusive Collection of Residential Waste and/or Commercial Waste for a period of time not to exceed twenty (20) years, upon such terms and conditions as the Board may determine to be in the public interest. No Person shall be considered for a franchise to collect and dispose or process said waste in the County unless and until the Board has received satisfactory evidence of the following, and the haulers covenant as follows:
- (1) The submittal is made in good faith.
 - (2) The hauler has the means and resources to carry out the Collection Service required.
 - (3) The hauler has the ability to maintain insurance in the form and the amount prescribed by the Board, including liability coverage and indemnification of the County.
 - (4) The hauler has complied with, or demonstrates its capacity and willingness to comply with, all Federal, state and local laws and ordinances, rules and regulations, including required permitting.
 - (5) The hauler has the ability to give surety for the faithful performance under the Ordinance.
- (h) All submittals initiated by any Person, or by the County, shall be executed under oath.
- (i) The Executive Director will be responsible for developing the franchise solicitation. The recommendation of franchisees shall be in conformance with the Procurement Code.
- (j) Any Person owning any franchise heretofore granted by the Board for the Collection of Residential Waste and Commercial Waste shall become the authorized Person to collect and deliver for disposal or Processing Residential Waste and Commercial Waste in the Solid Waste Service District covered by the existing Franchise Agreement, in the manner, as if originally established and authorized under the provisions of this Ordinance, for the balance of the term of years heretofore granted, unless sooner amended, modified, or revoked pursuant to law.
- (1) Any modification by the Board of the boundaries of a Solid Waste Service District shall also result in the simultaneous, equivalent modification of the boundaries of the Franchise Agreement area applicable to such District, unless specifically provided otherwise by the Board.
 - (2) Upon modification of the boundaries of any Solid Waste Service District, the Franchisee shall implement the provision of Residential Waste and Commercial Waste Collection Service in

the area included in the Solid Waste Service District by the modification.

- (k) The Board shall determine the Special Assessment to be imposed upon each class of Residential Customer within each Solid Waste Service District. Special Assessments must be uniformly assessed within each Customer class within each Solid Waste Service District. The Board shall annually levy and impose upon all improved Residential Real Property classified as residential property in each of the Solid Waste Service Districts, within each Customer class provided by this Ordinance, a Special Assessment to cover the cost of Collection, including disposal and/or Processing costs, of Residential Waste, the administration of the Solid Waste Service District and other Solid Waste programs.
- (l) Notwithstanding any other provisions of this Ordinance, the Board may institute any procedure that will facilitate the billing and collection of such Special Assessments, consistent with laws applicable thereto.
- (m) Annual Special Assessments levied by the Board for the Collection of Residential Waste do not cover the cost of removal and disposal or Processing of the following Waste Stream materials:
 - (1) Land Clearing Debris.
 - (2) Construction and Demolition Debris, including any debris resulting from remodeling that requires a building permit.
 - (3) Trash and debris associated with farming operations, when the farming activity involves five (5) acres or more of land.
 - (4) Hazardous (other than household Hazardous Wastes or Special Wastes delivered to the County Designated Site(s) as part of the Collection Services covered by the Franchise Agreement), Biological, Bio-Medical, and Radiological Waste.
 - (5) Wrecked, scrapped, ruined or dismantled motor vehicles, or motor vehicle parts, including batteries.
 - (6) Residential Waste generated on Real property or by Customers located within the unincorporated areas of Sarasota County lying outside the boundaries of Sarasota County Solid Waste Service Districts provided by ordinance.
 - (7) Residential Waste generated on Real property or by Customers located within the incorporated areas of Sarasota County.
 - (8) Sludge.
 - (9) Commercial Waste Stream materials.
 - (10) The Collection portion of the Rates for Solid Waste, Program Recyclables or Yard Trash collected as part of Residential Supplemental Collection Services.

- (11) Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

SECTION 12. Section 106-41 of the Code is hereby created to read as follows:

SECTION 106-41. DESCRIPTION OF SERVICE

All property within a Solid Waste Service District shall be subject to mandatory Residential Waste (including Program Recyclables) and Commercial Waste Collection Services, as provided by this Ordinance. Except as provided in this section, it shall be the responsibility of the Governing Body to provide within each of the Solid Waste Service Districts either directly or indirectly through agreement(s) with Franchisee(s) the following services:

- (a) Residential Collection Services
 - (1) Subject to Section 106-41(c) herein, it is mandatory that all owners or occupants of improved Residential Real Property within a Solid Waste Service District use the Franchisee for the Collection of Solid Waste, Yard Trash, Bulk Waste, White Goods, and Program Recyclables (collectively known as Residential Waste). It is permissible for occupants of improved Residential Real Property to use the Franchisee for the Collection of Computers and Electronic Equipment, used oil and used oil filters, and tires (including tires with rims) in accordance with the regulations of Solid Waste Management.
 - (2) The Special Assessments, for each Customer, Class I and Class II, imposed pursuant to this Ordinance, shall cover the cost of Collection Services, as determined by the Board from time to time, of all properly bundled and prepared Residential Waste, Computers and Electronic Equipment, used oil, used oil filters, and tires, including disposal costs (but excluding Collection costs) of Residential Supplemental Collection Services, generated from the improved Residential Real Property. The Special Assessment shall also cover the cost of the administration and Processing of Program Recyclables for the Solid Waste Service District.
 - (3) The Franchisee shall not conduct Residential Collection Services prior to 6:00 a.m. or after 8:00 p.m. unless otherwise authorized by the Executive Director.
 - (4) Class I Collection Service (via Curbside) shall consist of once-per-week Collection of properly prepared Residential Waste.
 - (5) Class II Collection Service (via dumpsters) shall consist of a minimum of once-per-week Collection of properly prepared Residential Waste.

- (6) Residential Collection Services shall be performed by the Franchisee Monday through Friday, except during Holiday weeks or as otherwise authorized by the Executive Director.
- (7) Residential Collection Services shall be provided to each Customer on the same day each week by the Franchisee.
- (8) The Franchisee shall ensure the Collection of all Residential Waste, except Extraordinary Waste, and Sludge, from or generated by Residential Class I and Class II, as defined herein, within the Service Area and shall be governed by the terms and conditions of the contractual agreements between the Governing Body and the Franchisee.

(b) Commercial Collection Services

- (1) Subject to Section 106-41(c) herein, Franchisee shall ensure the Collection of Solid Waste and Yard Trash (collectively known as Commercial Waste), except Extraordinary Waste, and Sludge, from or generated by any commercial or Industrial entity, as defined herein, within the Service Area a minimum of once-per-week.
- (2) The Franchisee shall not conduct Commercial Collection Services to Commercial Customers located within two hundred (200) feet of Residential Real Property, prior to 6:00 a.m. or after 8:00 p.m. unless otherwise authorized by the Executive Director.
- (3) In areas specifically designated by the Executive Director, based on complaints due to noise, the Franchisee shall not conduct Commercial Collection Services to Commercial Customers prior to 7:00 a.m. or after 8:00 p.m.
- (4) Commercial Collection Services shall be provided to each Customer on the same day each week by the Franchisee.

(c) Exempt Materials

Only the following types of Waste Stream materials are exempt from the mandatory provisions of this Ordinance and may be collected and delivered for disposal or Processing at the authorized Designated Site(s) by the owner or occupant of any Premises, or the owner's or occupant's representative, at the owner's or occupant's expense. Any such Collection and disposal shall be in accordance with the provisions of this Ordinance and other ordinances of Sarasota County and all state and federal laws relating to the Collection and disposal of Solid Waste:

- (1) Land Clearing Debris.
- (2) Construction and Demolition Debris. Residential debris including any remodeling, which may or may not require a building permit, in excess of two (2) cubic yards or (4) 32 - gallon containers.

- (3) Trash and debris associated with farming operations.
- (4) Extraordinary, Hazardous, Bio-Medical, and Radiological Waste, excluding Special Waste included as part of the Collection Services covered by the Franchise Agreement.
- (5) Wrecked, scrapped, ruined or dismantled motor vehicles, or motor vehicle parts, including used oil, tires and batteries.
- (6) Recyclable Materials. Providing the materials are subjected to a Recycling process.
- (7) Residential Waste generated in the unincorporated areas of Sarasota County lying outside the boundaries of Sarasota County Solid Waste Service Districts as provided by ordinance.
- (8) Residential Waste generated on Real property or by Customers located within the incorporated areas of Sarasota County.
- (9) Sludge.
- (10) Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

SECTION 13. Section 106-42 of the Code is hereby created to read as follows:

SECTION 106-42. SPECIAL ASSESSMENT

- (a) It shall be the responsibility of the property owners of a Dwelling Unit to pay or cause to be paid to the County a Special Assessment incurred by the Dwelling Unit(s) for the benefits received by such dwelling. Failure to pay this charge shall be considered a violation of this Ordinance and the charges may be collected as provided herein or as otherwise provided by the laws of the State of Florida.
- (b) The County or its designated agent will be responsible for the billing and collection of payments in the Solid Waste Service Districts through the levy of Special Assessments, as set forth herein.
- (c) The fiscal year of each Solid Waste Service District shall commence on October 1 of each year and end on September 30. The County budget officer shall present to the Governing Body an annual budget for each Solid Waste Service District as prepared by Solid Waste Management.
- (d) Special Assessments for ad valorem taxes shall be levied, collected and distributed pursuant to state law. The assessment shall constitute a lien as of October 1 of each year in which a Special Assessment is levied. All costs of the Tax Collector and Property Appraiser shall be deemed costs of administration of the Solid Waste Service District.
- (e) The Board shall provide procedures for the levy and collection of the Special Assessments for new construction upon residential Improved Real

Property, for changes in use of assessed property, and for errors or omissions from the assessment roll. In the absence of procedures established by the Board, the procedures used by the Sarasota County Tax Collector may be used.

- (f) Fee time share real property shall be classified as residential, with each separate accommodation as defined by Florida Statutes, therein deemed a separate Residential Customer. Each single family apartment, regardless of the number of time share title holders, shall be construed as a separate Residential Customer. The total of the Special Assessments levied hereunder shall be assessed to the taxpayer as defined and provided for in Section 192.037, Florida Statutes, as amended from time to time, or as otherwise provided by law.
- (g) Special Assessments levied hereunder shall be made separately for each condominium parcel as provided by Section 718.120, Florida Statutes, as amended from time to time, and each such condominium parcel shall be deemed a Residential Customer.
- (h) Sarasota County Construction and Property Standards shall not issue a Certificate of Occupancy for improved Residential Real Property, whether new construction or a change in the use of property from another category to improved Residential Real Property, until such issuance has been approved by Solid Waste Management, who shall grant approval upon the following circumstances:
 - (1) The property for which the Certificate of Occupancy is requested is listed on the then current tax roll; or
 - (2) If the property is not on the then current tax roll, upon payment in full to Solid Waste Management of an amount representing the pro rata portion of the current annual assessment plus an additional twelve (12) months for each residential class of property. Solid Waste Management shall compute and publish a schedule reflecting the pro rata payment in effect for each month of the current fiscal year. The amount of each month's payment shall be the average of what would be the daily pro rata payments for that month. The collection of the pro rata portion of the Solid Waste Special Assessment plus an additional twelve (12) months shall be made by Construction and Property Standards prior to the time a Certificate of Occupancy is issued. Construction and Property Standards shall receive a transaction fee on Certificates of Occupancy where Solid Waste Special Assessments are collected on behalf of the Department as compensation for making such collections.
 - (3) Solid Waste Special Assessments which are processed by Construction and Property Standards for an incorrect amount shall be corrected and the amount of the error shall either be refunded or collected. Provided however, that if the correction is for less than

\$5.00, no collection will be made and a refund will be made only upon a specific request from the Customer.

- (i) Upon receipt of the same by the Board of County Commissioners from the Tax Collector, all Special Assessments and other charges levied and collected herein, shall be distributed to the appropriate Governing Body for each of the Solid Waste Service Districts. For services performed during the previous month, the Governing Body shall distribute to its respective Franchisee, an amount equal to one twelfth (1/12) of the approved annual payment per Customer, plus adjustments for Customers added subsequent to the establishment of the approved annual payment per Customer and corrections in errors or omissions in the tax roll.
- (j) All Special Assessments shall fund the costs for providing and administering the residential programs managed by Solid Waste Management, including, but not limited to, the Collection, Processing and/or disposal of Residential Waste, Computers and Electronic Equipment, used oil, used oil filters, and tires including tires with rims; Code Enforcement; Keep Sarasota County Beautiful; Illegal Dumping; Lawn Mowing; and Hazardous Waste Management Programs.
 - (1) The Surcharge for Solid Waste programs shall be established by resolution of the Board at a public hearing and shall be added to the Landfill Tipping Fee to fund the costs of administering programs and enforcing the provisions of this Ordinance. Municipalities shall be exempt from portions of the Surcharge.
 - (2) All Surcharges shall be disbursed only for the operations of Solid Waste Management.
 - (3) Solid Waste Management funds shall at all times remain separate and distinct from County General Revenue Funds.
 - (4) Any and all Solid Waste Management funds at the end of a fiscal year shall automatically become the beginning balance of each succeeding fiscal year.

SECTION 14. Section 106-43 of the Code is hereby created to read as follows:

SECTION 106-43: CORRECTION OF ERRORS AND OMISSIONS

- (a) No act of error, omission or commission on the part of the Property Appraiser, Tax Collector, Governing Body, Executive Director, Board, Clerk, or their deputies or employees, or other Board designee shall operate to defeat the payment of the annual collection of Special Assessments imposed by the Board under the provisions of this Ordinance. However, any errors or omissions or commissions may be corrected at any time by the Solid Waste Service Districts in like manner as the initial performance of such acts and when so corrected, they shall be construed as invalid ab initio and shall in no way affect any legal process

for the enforcement of the annual Special Assessments levied under the provisions of this Ordinance.

- (b) Any owner of real property may petition the Board to correct any asserted error, omission or commission in relation to his property in the adoption of the annual Special Assessment roll. Such petition shall be initiated by filing with the Board or its designee, a written petition containing the name of the owner, a legal description of the real property affected, a summary description of the asserted error and the relief requested of the Board. There is no filing deadline for an appeal. However, property owners should take into account the established statutory limitation on the refunds of paid assessments. The Solid Waste Service District will respond to the property owner in writing within sixty (60) calendar days of receipt of the written complaint.
- (c) The Governing Body shall have the authority, at any time, upon its own initiative or in response to a petition from any affected owner, or lessee of Improved Real Property, to correct any error in the adoption of any Special Assessment roll or addendum thereto.
- (d) When it shall appear that any Special Assessment was imposed under this Ordinance against any parcel of improved Residential Real Property in error, the Executive Director shall amend the Solid Waste tax roll during the fiscal year in which the error is discovered and the record owner of such parcels shall receive a refund of past Special Assessment charges as in accordance with established statutory limitations.
- (e) When it shall appear that any Special Assessment should have been imposed under this Ordinance against any parcel of improved Residential Real Property, but such parcel of Improved Real Property was omitted from the roll, or any addendum to such roll, the parcel shall be added, by the Executive Director, to the Solid Waste tax roll during the fiscal year in which the omission is discovered and such parcels shall be assessed for past Special Assessment charges due and will include charges incurred during the current fiscal year. Parcels of Improved Real Property which have been resold shall be assessed for past Special Assessment charges commencing with the sale date forward.

SECTION 15. Section 106-44 of the Code is hereby created to read as follows:

SECTION 106-44. RESPONSIBILITIES OF THE AUTHORIZED COLLECTORS

Temporary exemptions granted pursuant to Ordinance No. 86-35 shall expire on either (1) November 20, 2007, (2) when the Authorized Collector's transport equipment is fully depreciated, or (3) when the Authorized Collector fails to comply with this Ordinance, whichever comes first. At the time the exemption terminates, Authorized Collectors shall no longer be allowed to collect, dispose or process their own Solid Waste, Yard Trash and Program Recyclables.

- (a) It shall be the responsibility of all Authorized Collectors to haul and dispose properly of their Solid Waste, Program Recyclables and Yard Trash in accordance with this Ordinance, and at Designated Site(s).
- (b) Authorized Collectors shall not mix Solid Waste, Yard Trash, Program Recyclables, or other materials intended to be collected separately, during the Collection process.
- (c) The Executive Director or his designee shall have the right to inspect the operations and equipment of all Authorized Collectors at any reasonable time and shall be admitted to make such inspections.
- (d) Authorized Collectors shall submit an annual report to the County stating the monthly tonnage, annual total tonnage; and proof of insurance. Furthermore, Authorized Collectors shall provide, within 60 days of the effective date of this ordinance, evidence of the following: 1) the original application, 2) original equipment on the application, 3) a list of the depreciation on each piece of equipment on the original application.
- (e) In no event shall new or used equipment be allowed to substitute for the equipment in the original approved application.
- (f) Authorized Collectors shall cooperate with the Executive Director in providing every reasonable opportunity for ascertaining whether or not the duty and responsibilities of the Authorized Collector are being performed.
- (g) Authorized Collectors shall not conduct collection services for their own Solid Waste, Yard Trash, or Recyclables if located within two hundred (200) feet of another Residential Real Estate Property prior to 6:00 a.m. or after 8:00 p.m. unless authorized by the Executive Director.
- (h) In areas specifically designated by the Executive Director, based on complaints due to noise, the Authorized Collector shall not conduct collections service prior to 7:00 a.m. or after 8:00 p.m.
- (i) Authorized Collectors shall use only vehicles with bodies which are water tight to a depth sufficient to prevent discharge of accumulated water during loading and transport operations, with solid metal sides, and covered metal top. The collector shall provide sufficient equipment, of a nature suitable to the type of service being provided, to maintain regular schedules of Collection and to promptly and efficiently perform his duties under the rules and regulations. As an alternative to a fully enclosed metal top, the Authorized Collector's vehicles may be equipped with a cover which is net with mesh not greater than one and one half (1 1/2) inches, or tarpaulin, and such cover shall be kept in good mechanical order and used to cover the Load traveling to and from the loading operation or where parked if the contents are likely to be scattered if not covered.
- (j) Authorized Collector's vehicles shall not be overloaded so as to scatter Solid Waste, Yard Trash or Program Recyclables; but, if said material is scattered from said vehicle for any reason, it shall be the responsibility of the Authorized Collector to immediately pick up such scattered material.

