

Chapter 94 SOLID WASTE¹

ARTICLE I. IN GENERAL

Sec. 94-1. Definitions.

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

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

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

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

Annual collection and recycling program special assessment means the annual special assessment imposed upon a parcel of residential improved real property in the solid waste collection and recycling program **M**municipal **S**ervice **B**enefit **U**nit 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**oard of **C**ounty **C**ommissioners. The assessment for the applicable fiscal year is based upon the classification of the use of such property as specified in the **R**ate **R**esolution.

Annual collection and recycling program special assessment roll means the list prepared by the **D**irector and confirmed by the **B**oard of **C**ounty **C**ommissioners 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**roperty **A**ppraiser; 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 **M**municipal **S**ervice **B**enefit **U**nit 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.

¹Cross reference(s)—Environment, ch. 46; health and sanitation, ch. 54; utilities, ch. 110.

Special act references—Special acts pertaining to disposal of dead animals, § 206-1; special acts pertaining to solid waste, ch. 252.

State law reference(s)—Authority to provide for waste collection and disposal, F.S. § 125.01(1)(k); Florida Litter Law, F.S. § 403.413; resource recovery and management, F.S. § 403.702 et seq.

Annual disposal special assessment roll means the list prepared by the **D**irector and confirmed by the **B**oard of **C**ounty **C**ommissioners 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 **P**roperty **A**ppraiser; the rate classification applicable to each parcel of improved property as specified in the rate resolution; and the amount of the annual disposal special assessment applicable to each parcel of improved real property.

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

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

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

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

Automated collection cart means a 36, 64 or 96 gallon durable plastic container with recycled content, approved by the **D**irector, 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 **U**nit* means, as context dictates, either:

- (1) The solid waste collection and recyclable program **M**municipal **S**service **B**benefit unit, which includes all residential improved within the unincorporated area of the **C**ounty, a description of the boundary is on file in the office of the **D**irector; or
- (2) The solid waste disposal **M**municipal **S**service **B**benefit **U**nit which includes all improved real properties in the county.

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

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

- (1) Used, absorbent materials saturated with blood, blood products, body fluids, excretions or secretions contaminated with visible blood, and absorbent materials saturated with blood or blood products that have dried.
- (2) Non-absorbent disposable devices which have been contaminated with blood, body fluids, or secretions or excretions visibly contaminated with blood, but have not been treated by an approved method.

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

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

Board or ~~B~~board of ~~C~~ounty ~~C~~ommissioners means the governing board of Brevard County, Florida.

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

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

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

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

Certificate of ~~O~~ccupancy 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 ~~C~~ertificate of ~~O~~ccupancy shall state the nature of the occupancy permitted, the number of persons for each floor when limited by law, and the allowable load per square foot for each floor in accordance with the provisions of chapter 22, or the applicable municipal building code.

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

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

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

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

Collection point means:

- (1) *Single-family and individual multiple family residence.* A point within five feet from the curblineline or paving line of the nearest public street; or in the case of the existence of a drainage ditch, at a point within said dimensions on the nearest driveway. If such a location would cause undo hardship to the customer or the collector or create a health or safety concern to the public the collection point shall be

designated by the collector in consultation with the customer and shall be subject to approval by the director in the event of a dispute.

- (2) *Multiple-family residence and commercial unit.* A point designated by the collector in consultation with the customer and shall be subject to approval by the director in the event of a dispute. The location of the collection point shall maximize economy in the collection of recyclable materials and solid waste while considering the public health and convenience to the customer.

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

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

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

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

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

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

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

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

County ~~M~~anager means the chief executive officer of county government appointed by the ~~B~~oard of ~~C~~ounty ~~C~~ommissioners, Brevard County, Florida.

County's means owned by the ~~B~~oard of ~~C~~ounty ~~C~~ommissioners.

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

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

Department means the county's ~~S~~olid ~~W~~aste ~~M~~anagement ~~D~~epartment.

Director means the ~~D~~irector of the ~~S~~olid ~~W~~aste ~~M~~anagement ~~D~~epartment of Brevard County, appointed by the ~~C~~ounty ~~M~~anager with the consent of the ~~B~~oard of ~~C~~ounty ~~C~~ommissioners, 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 ~~B~~oard of ~~C~~ounty ~~C~~ommissioners.

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 ~~B~~oard of ~~C~~ounty ~~C~~ommissioners.

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

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

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

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

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

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

Gate account means an account established by a person or entity for the use of the solid waste management facilities operated by the ~~B~~oard ~~o~~f ~~C~~ounty ~~C~~ommissioners.

Governmental agencies means all state, federal or local agencies or units of government located within the ~~C~~ounty, including, but not limited to, the ~~S~~chool ~~B~~oard of the ~~C~~ounty, all municipalities within the ~~C~~ounty, all ~~S~~pecial ~~D~~istricts and ~~M~~unicipal ~~S~~ervice ~~T~~axing ~~U~~nits with all or part of their boundaries within the ~~C~~ounty and any municipality or ~~S~~pecial ~~D~~istrict or other unit of government whose boundaries are not within the ~~C~~ounty but which is the owner of improved real property within the ~~C~~ounty.

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.

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

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

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

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

Landclearing debris means rocks, soils, tree remains, trees, large branches, stumps, root balls, palms, shrubs, and other vegetative matter which ~~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.

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

- (a) Land application sites where reclaimed water, effluents or wastewater residuals are applied to the land through spray irrigation, land spreading, or other methods;
- (b) A surface impoundment for the treatment and disposal of stormwater or wastewater; or
- (c) An injection well into which fluids are injected, by gravity flow or under pressure.

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

Litter means any garbage, rubbish, trash, refuse, can, bottle, box, container, paper, tobacco product, tire, appliance, furniture; mechanical equipment or part, construction or demolition material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment

facility, water supply treatment plant, or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, agricultural or governmental operations.

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

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

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

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

Multiple-family residence means any building or structure or portion of any building or structure designed or constructed for and capable of use for one or more permanent residences.

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

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

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

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

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

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

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

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

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

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

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

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

Proof of origin means documentation of the location of generation of the waste to be disposed. For property owners or tenants bringing waste to the County solid waste management facilities, proof of origin shall consist of a valid driver's license or other valid form of ID showing the property address, and additional documentation

showing ownership or tenancy. For commercial haulers, proof of origin shall consist of a work order or invoice showing the name, address, and contact information of the owner of the property where the waste was generated.

Property Appraiser means the property appraiser of the County.

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

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

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

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

Recyclable materials means any materials which can be recovered from the solid waste stream and reused in manufacturing, agriculture, power production or other processes. For the purpose of recyclable materials collection service to residential single- and multiple-family units, recyclable materials shall include those materials as determined by the Director and described in the Collection Contract Agreement.

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

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

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

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

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

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

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

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

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

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

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

Solid waste, as defined in F.A.C. rule 62-701.200, means sludge that is not regulated under the Federal Clean Water Act or Clean Air Act, as well as, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Materials not regulated as solid waste pursuant to this chapter are: recovered materials; nuclear source or byproduct materials regulated under F.S. ch. 404, or under the Federal Atomic Energy Act of 1954 as amended; suspended or dissolved materials in domestic sewage effluent or irrigation return flows, or other regulated point source discharges; regulated air emissions; and fluids or wastes associated with natural gas or crude oil exploration or production.

Solid waste collection service means the collection of solid waste from improved real property under authority of a [Collection Contract Agreement](#).

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

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

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

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

Special collection solid waste. See bulky waste.

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

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

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

Tax Collector means the tax collector of the County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1979, § 12-2; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2002-57, § 1, 11-12-02; Ord. No. 08-42, § 1, 10-14-08; Ord. No. 14-03, § 1, 1-28-14)

Cross reference(s)—Definitions generally, § 1-2.

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.

(Code 1979, § 12-1; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 2, 1-28-14)

Sec. 94-3. Violations.

- (a) It shall be a violation of the Code of Ordinances of Brevard County, Florida for any person to perform any act prohibited by this chapter or fail to perform any act required by this chapter.
- (b) For violations of this chapter that are continuous with respect to time, each day the violation continues is a separate offense.

(Code 1979, § 12-60; Ord. No. 08-42, § 2, 10-14-08)

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.

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- (3) Violations of this chapter may be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished as provided in section 1-7, Code of Ordinances of Brevard County, Florida.
 - (4) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil fines or other administrative actions, including action pursuant to F.S. Ch. 162.
 - (5) In addition, and in accordance with the Florida Litter Law (F.S. § 403.413), any person who dumps litter in excess of 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste is guilty of a felony of the third degree punishable as provided in F.S. Ch. 775.

(Code 1979, § 12-61; Ord. No. 08-42, § 3, 10-14-08)

Secs. 94-5—94-30. Reserved.

ARTICLE II. SOLID WASTE COLLECTION AND RECYCLING

DIVISION 1. GENERALLY

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 **Municipal Service Benefit Unit** under the authority of F.S. § 125.01. The boundaries of the **Benefit 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 **Municipal Service Benefit Unit**, F.S. § 125.01(1)(q).

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

- (a) Unless otherwise exempt or prohibited, all solid waste generated and accumulated within the solid waste collection and recycling program **Municipal Service Benefit Unit** shall be collected and removed by a **Collector** and disposed of at the **County's** solid waste management facilities or at a solid waste management facility where all applicable federal, state and local government permits for such activity have been acquired.
- (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 Contract Agreement**. Said solid wastes shall be removed and disposed of by the owner in accordance with applicable laws and regulations.

(Code 1979, § 12-4; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 08-42, § 4, 10-14-08; Ord. No. 14-03, § 3, 1-28-14)

Secs. 94-33—94-45. Reserved.

DIVISION 2. RESIDENTIAL PROPERTY

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

(Code 1979, § 12-5; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 08-42, § 5, 10-14-08; Ord. No. 14-03, § 4, 1-28-14)

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.

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- (7) A customer desiring pickup of bulky solid waste, as defined in section 94-1, shall notify the Collector that they desire pickup of bulky waste and shall place such waste at the collection point on the collection day designated by the Collector.
- (b) Any receptacle or container used for the collection or storage of solid waste failing to meet the requirements of this chapter shall be tagged by the Collector. The tag shall clearly identify the manner in which the container fails to meet the specifications of a solid waste receptacle. If the customer does not remove the improper receptacle after it has been tagged twice, on two separate collection days, the Collector shall have the right to refuse to service that receptacle.
- (c) *Collection point.* All solid waste and solid waste receptacles shall be placed by the customer at the applicable collection point as defined in section 94-1 except that:
- (1) Solid waste and solid waste receptacles shall be placed or be kept upon property in the ownership or tenancy of the person by whom the solid waste is generated and accumulated. Solid waste shall not be kept in the parkway of a property not in the ownership or tenancy of the person by whom the solid waste is accumulated.
 - (2) Solid waste and solid waste receptacles, shall not be placed or kept upon County or public property, except solid waste and solid waste receptacles may be placed within the parkway during regular scheduled collection times. However, such solid waste and receptacles collection carts shall be neatly placed so as to allow convenient passage of persons and conveyances lawfully in the parkway. No receptacles or solid waste shall be placed in streets, gutters or drainage ditches.
 - (3) All solid waste and solid waste receptacles shall be placed at the collection point on or before 6:00 a.m. of the collection day. In no event shall solid waste or solid waste receptacles be placed at the collection point before noon on the day prior to the regular collection day; and receptacles shall be removed from the collection point by noon on the day after the collection day.

(Code 1979, § 12-6; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2002-57, § 2, 11-12-02; Ord. No. 08-42, § 6, 10-14-08; Ord. No. 14-03, § 5, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 5, adopted January 28, 2014, amended § 94-47 to read as set out herein. Previously § 94-47 was titled residential receptacles, improper receptacles, collection point.

Sec. 94-48. Reserved.

Editor's note(s)—Ord. No. 2010-16, § 1, adopted Sept. 7, 2010, repealed § 94-48, which pertained to maintenance of property and derived from Code 1979, § 12-7; Ord. No. 97-25, § 1, 7-22-97.

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.

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- (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.

(Ord. No. 08-42, § 7, 10-14-08; Ord. No. 14-03, § 6, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 6, adopted January 28, 2014, amended § 94-49 to read as set out herein. Previously § 94-49 was titled yard trash collection.

Secs. 94-50—94-60. Reserved.

DIVISION 3. COMMERCIAL PROPERTY

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.

(Code 1979, § 12-8; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 08-42, § 8, 10-14-08; Ord. No. 14-03, § 7, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 7, adopted January 28, 2014, amended § 94-61 to read as set out herein. Previously § 94-61 was titled requirements governing removal of solid waste from commercial property.

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:

- (1) Solid waste, solid waste receptacles from commercial units shall be neatly placed at the collection point so as to allow convenient passage of persons and conveyances. No solid waste or solid waste receptacles shall be placed or kept upon county or public property, except solid waste and solid waste collection carts may be placed within the parkway during regular scheduled collection times. However, such solid waste and solid waste collection carts shall be neatly placed so as to allow convenient passage of persons and conveyances lawfully in the parkway. No solid waste or collection carts shall be placed in streets, gutters or drainage ditches.
- (2) Commercial containers and compactor boxes shall be located as close to the building or buildings as practical or otherwise concealed to prevent them from becoming a public nuisance. However, no commercial containers or compactor boxes shall be placed or kept upon public property.
- (3) All solid waste and solid waste collection carts shall be placed at the collection point on or before 6:00 a.m. of the collection day. In no event shall solid waste or solid waste collection carts be placed at the collection point before noon on the day prior to the regular collection day; and receptacles shall be removed from the collection point by noon on the day after the collection day.

(Code 1979, § 12-9; Ord. No. 2002-57, § 3, 11-12-02; Ord. No. 08-42, § 9, 10-14-08; Ord. No. 14-03, § 8, 1-28-14)

Sec. 94-63. Reserved.

Editor's note(s)—Ord. No. 2010-16, § 2, adopted Sept. 7, 2010, repealed § 94-63, which pertained to maintenance of properties and derived from Code 1979, § 12-10; Ord. No. 97-25, § 1, 7-22-97.

Secs. 94-64—94-75. Reserved.

DIVISION 4. CONSTRUCTION, DEMOLITION, LANDCLEARING DEBRIS

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

expressed permission of the owner of the property is given and all applicable federal, state and local government permits for such activity have been acquired. This exemption shall not apply to landclearing debris which has been mixed with any other types of solid waste.

(Code 1979, § 12-11; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2002-57, § 4, 11-12-02; Ord. No. 08-42, § 10, 10-14-08; Ord. No. 14-03, § 9, 1-28-14)

Sec. 94-77. Containment requirements.

The actual generators of construction and demolition debris or the owners of premises upon which such debris is generated or accumulated shall store loose construction and demolition debris in roll-off containers provided by a collector or within wire or wood fencing, or provide other on-site control of the debris as approved by the director, to prevent wind-driven scattering of such materials.

(Code 1979, § 12-12)

Sec. 94-78. Maintenance of areas adjacent to construction and demolition sites; timely removal and disposal of debris.

Construction and demolition debris, landclearing debris and other solid waste generated or accumulated on a construction and demolition site which has been scattered by whatever means upon adjacent public or private property shall be removed by the generator not later than the end of the workday of the incident. All solid waste shall be removed from the construction and demolition site within 30 days from the date of completion of the construction and/or demolition activity. On-site disposal of construction and demolition debris, including installation of final cover, shall be accomplished within 30 days from the date of completion of the construction and demolition activity which generated the debris.

(Code 1979, § 12-13; Ord. No. 97-25, § 1, 7-22-97)

Secs. 94-79—94-90. Reserved.

DIVISION 5. COLLECTION CONTRACT AGREEMENTS AND PERMITS

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 one five years.

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- (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 Ceounty for such Ceollection Contractagreement, if any, and the method of payment; the service to be furnished by the Ceollector; the amount and method of payment to the Ceollector for his performance under the Ceollection Contractagreement; the performance bond, and the conditions thereof, to be furnished by the Ceollector if one is deemed necessary; and such reasonable rules and regulations governing the performance by the Ceollector as are deemed necessary to implement the provisions of this chapter and to effectively operate and maintain the Ceounty's solid waste disposal system.
- (d) Prior to entering into a Ceollection Contractagreement, the Bboard of Ceounty Ceommissioners shall hold a public hearing to consider the financial responsibility, competency and capability of performance of the proposed Ceollector; the proposed cost of collection within the service area; and the amount of consideration, if any, proposed to be paid to the Bboard by the Ceollector.
- (e) Notice of the time and place of such public hearing shall be published one time in a newspaper of general circulation in the Ceounty at least 20 days prior to the hearing.

(Code 1979, § 12-14; Ord. No. 95-15, § 1, 4-4-95; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 10, 1-28-14)

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 Ceollection Contractagreement with the Bboard of Ceounty Ceommissioners 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 Ceounty, except by a person who has entered into a Ceollection Contractagreement with the Bboard of Ceounty Ceommissioners 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 Ceounty, shall obtain a permit for such activity from, the Bboard of Ceounty Ceommissioners 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 Ceounty without a valid permit for such activity from the Bboard of Ceounty Ceommissioners.
- (e) It shall be unlawful for any person to carry on the business of Ceollection of recyclable materials from residential improved real properties in the unincorporated area of the Ceounty without first entering into a Ceollection Contractagreement with the Bboard of Ceounty Ceommissioners as authorized in section 94-91.

(Code 1979, § 12-15; Ord. No. 95-15, § 2, 4-4-95; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 08-42, § 11, 10-14-08; Ord. No. 14-03, § 11, 1-28-14)

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

- (a) Any person desiring to provide roll-off containers for the storage and removal of construction, demolition or landclearing debris on any real property in the unincorporated area of the Ceounty shall file an application for a permit with the Deirector. 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 ~~B~~board shall establish, by [Rate Resolution](#), roll-off permit application fees.
- (c) Roll-off permits shall be effective for a ~~maximum~~ term of ~~one~~~~five~~ 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.

(Ord. No. 08-42, § 12, 10-14-08; Ord. No. 14-03, § 12, 1-28-14)

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

- (a) Within 30 days of receipt of a completed application, the ~~D~~irector 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 ~~D~~irector 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 ~~D~~irector's denial in the same manner as provided for appeal of revocation of permits in section 94-96.

(Ord. No. 08-42, § 13, 10-14-08)

Sec. 94-95. Permit renewal.

Any roll-off permit holder desiring to renew an existing permit shall complete and submit to the ~~D~~irector 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.

(Ord. No. 08-42, § 14, 10-14-08)

Sec. 94-96. Permit revocation; hearings.

- (a) Permits shall be effective until revoked by the ~~D~~irector, 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

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- (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.

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- (8) If the ~~S~~pecial ~~M~~agistrate 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 ~~S~~pecial ~~M~~agistrate 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 ~~S~~pecial ~~M~~agistrate shall be filed with the clerk to the special magistrate, and copies shall be mailed to the ~~D~~irector, ~~C~~ode ~~E~~nforcement, 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 ~~D~~irector.
- (Ord. No. 08-42, § 15, 10-14-08)

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 ~~b~~inding 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 ~~B~~oard 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 ~~C~~ounty 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.

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- (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 ~~C~~ounty 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 ~~D~~irector 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 ~~B~~oard 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.

(176) 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,

(Ord. No. 08-42, § 16, 10-14-08; Ord. No. 14-03, § 13, 1-28-14)

Secs. 94-98—94-116. Reserved.

DIVISION 6. RECYCLING²

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

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

(Code 1979, § 12-17; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 14, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 14, adopted January 28, 2014, amended § 94-117 to read as set out herein. Previously § 94-117 was titled recycling containers; curbside recyclable materials collection service; placement of recyclable materials.

²State law reference(s)—Recycling, F.S. § 403.706(2)—(19).

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.

(Code 1979, § 12-18; Ord. No. 14-03, § 15, 1-28-14)

DIVISION 7. PUBLIC NUISANCE

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.

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

- (c) *Requirement to maintain property.*

- (1) "Improper outdoor storage" of litter, trash, junk, or debris on any lot, tract, or parcel of land, either improved or unimproved, is hereby declared to be a public nuisance and is prohibited, unless such storage is exempt as determined by this article. Improper outdoor storage is prohibited in vacant areas, sidewalks, grass strips and contiguous alleys and curbs.

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- (2) It shall be the duty of the property owner of record, lessees, tenants and occupants to maintain their property in a litter free condition and to eliminate all litter, trash, junk or debris that is improperly stored outside or outdoors.
 - (3) Accumulation or storage of litter, trash, junk, or debris on property zoned and permitted for junk yards, automobile wrecking yards, or other permitted zoning classifications are exempt from the provisions of this section.
 - (4) Containment of litter. All commercial establishments shall store their solid waste in a controlled manner so as to eliminate wind-driven litter in and about their property. The owner or occupant of any commercial establishment shall provide approved litter receptacles adequate to contain all litter and other loose solid waste, where the potential of litter generation exists, such as loading or unloading areas, parking lots or other areas used by the public.

(Ord. No. 2010-16, § 4, 9-7-10; Ord. No. 14-03, § 16, 1-28-14)

Secs. 94-120—94-155. Reserved.

ARTICLE III. DISPOSAL

DIVISION 1. GENERALLY

Secs. 94-156—94-165. Reserved.

DIVISION 2. DISPOSAL

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 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 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 County.
- (c) Any person desiring to dispose of special solid waste at the County'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.

(Code 1979, § 12-21; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 08-42, § 17, 10-14-08)

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.

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

Sec. 94-168. Reserved.

Editor's note(s)—Ord. No. 08-42, § 18, adopted Oct. 14, 2008, repealed § 94-168, which pertained to solid waste management facility permits required. See the Code Comparative Table for complete derivation.

Secs. 94-169—94-180. Reserved.

DIVISION 3. LITTER CONTROL

Sec. 94-181. Presumption.

Prosecution for a violation of this division may be commenced against any person whose name or address appears on an article of litter discovered on private or public property in violation of this chapter. It shall be presumed that any article of litter so discovered is the property of the person whose name or address appears thereon, and that such person placed or caused to be placed such article of litter on the property upon which it is discovered. This presumption is based on the theory that all generators of litter are responsible for its proper disposal in compliance with this chapter.

(Code 1979, § 12-26)

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.

(Code 1979, § 12-27)

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 County, 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.

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- (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.

(Code 1979, § 12-24; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2010-16, § 5, 9-7-10)

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 Contract agreement 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 disburied, 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, disburied, 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.

(Code 1979, § 12-25)

State law reference(s)—Vehicles scattering load, F.S. § 316.520.

Secs. 94-185—94-195. Reserved.

DIVISION 4. PROHIBITED WASTE

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.

(Code 1979, § 12-29)

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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.

(Code 1979, § 12-28; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 08-42, § 19, 10-14-08; Ord. No. 14-03, § 17, 1-28-14)

Secs. 94-198—94-220. Reserved.

ARTICLE IV. SPECIAL ASSESSMENTS, SERVICE FEES AND IMPACT FEES³

DIVISION 1. GENERALLY

Secs. 94-221—94-230. Reserved.

DIVISION 2. SPECIAL ASSESSMENTS AND SERVICE FEES⁴

Sec. 94-231. Prima facie evidence of production of solid waste and recyclable materials.

The fact that any residential or commercial improved real property located within the county is designed for occupancy, or is capable of being occupied, shall be prima facie evidence that solid waste and recyclable materials are being produced or accumulated upon such property.

(Code 1979, § 12-32)

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 Sservice Bbenefit 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 Sservice Bbenefit 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.

³Editor's note(s)—Ord. No. 14-03, § 18, adopted January 28, 2014, amended the title of art. IV. to read as set out herein. Previously art. IV. was titled fees.

State law reference(s)—Solid waste management fees authorized, F.S. § 403.7049.

⁴Editor's note(s)—Ord. No. 14-03, § 19, adopted January 28, 2014, amended the title of art. IV, div. 2, to read as set out herein. Previously art. IV, div. 2, was titled special assessments.

State law reference(s)—Authority to collect fee through special assessments, F.S. § 403.7049(5); special assessments, F.S. § 197.363 et seq.

(Code 1979, § 12-33; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 20, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 20, adopted January 28, 2014, amended § 94-232 to read as set out herein.
Previously § 94-232 was titled determination of annual special assessments.

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.

(Code 1979, § 12-34; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 21, 1-28-14)

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 **R**ate **R**esolution 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 ~~B~~board of ~~C~~ounty ~~C~~ommissioners shall, at any regular or special meeting on or before September 15, review the annual special assessment rolls prepared by the ~~D~~irector for its conformity with the rate resolution provided for in section 94-233. The ~~B~~board shall make such changes or additions as necessary to conform such rolls with the ~~R~~ate ~~R~~esolutions. If upon the completion of such review the ~~B~~board is satisfied that the annual special assessment rolls have been prepared in conformity with the ~~R~~ate ~~R~~esolution, it shall ratify and confirm such rolls and certify the rolls to the ~~T~~ax ~~C~~ollector for collection.
- (c) If any classification of improved real property designated in the ~~R~~ate ~~R~~esolution requires an individual calculation of an annual special assessment, the ~~D~~irector 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.

(Code 1979, § 12-35; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 22, 1-28-14)

State law reference(s)—Hearing to determine assessment, F.S. § 197.3632(4).

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 ~~D~~irector 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 ~~R~~ate ~~R~~esolution.

(Code 1979, § 12-36; Ord. No. 2002-57, § 5, 11-12-02; Ord. No. 14-03, § 23, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 23, adopted January 28, 2014, amended § 94-235 to read as set out herein. Previously § 94-235 was titled method of collection of annual special assessments.

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 ~~R~~ate ~~R~~esolutions, multiplied by the number of months remaining in the year prior to October 1 of that fiscal year.

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(Supp. No. 129)

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- (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.

(Code 1979, § 12-37; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2002-57, § 5, 11-12-02; Ord. No. 14-03, § 24, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 24, adopted January 28, 2014, amended § 94-236 to read as set out herein.

Previously § 94-236 was titled special assessments prior to initiation of first full year annual special assessments; payment of prorated special assessments; discharge of lien.

Sec. 94-237. Separately prepared annual special assessment notices 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.

(Code 1979, § 12-38; Ord. No. 14-03, § 25, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 25, adopted January 28, 2014, amended § 94-237 to read as set out herein.
Previously § 94-237 was titled separately prepared annual special assessment notices.

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

- (a) No act of omission or commission on the part of the ~~P~~roperty ~~A~~ppraiser, ~~T~~ax ~~C~~ollector, ~~B~~oard of ~~C~~ounty ~~C~~ommissioners, ~~D~~irector 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 ~~B~~oard of ~~C~~ounty ~~C~~ommissioners 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 ~~B~~oard of ~~C~~ounty ~~C~~ommissioners 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 ~~R~~ate ~~R~~esolution.
- (c) Any owner of real property may petition the ~~B~~oard of ~~C~~ounty ~~C~~ommissioners 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 ~~D~~irector 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 ~~B~~oard. Such petition shall be considered by the ~~B~~oard at any regular or special meeting, with notice being provided to the petitioner.

(Code 1979, § 12-39; Ord. No. 14-03, § 26, 1-28-14)

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 ~~B~~oard of ~~C~~ounty ~~C~~ommissioners may adjust and impose such applicable annual special assessment until March 31 for the current fiscal year.

(Code 1979, § 12-40; Ord. No. 14-03, § 27, 1-28-14)

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 **B**oard, 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 **C**ounty'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 **C**ounty 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 **C**ounty agency or **C**ounty department shall pay the annual special assessment applicable to it under the applicable classifications specified in the **R**ate **R**esolutions adopted under the provisions of section 94-232, unless specifically exempted by the **B**oard.

(Code 1979, § 12-41; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2002-57, § 6, 11-12-02; Ord. No. 14-03, § 28, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 28, adopted January 28, 2014, amended § 94-240 to read as set out herein. Previously § 94-240 was titled annual special assessment to governmental agencies, county agencies and leasehold interest in improved real property leased to or by a governmental agency.

Sec. 94-241. Exemptions from annual collection and recycling program special assessments 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 **D**irector 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 **D**irector in accordance with the provisions of section 94-242.

(Code 1979, § 12-42; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 29, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 29, adopted January 28, 2014, amended § 94-241 to read as set out herein.

Previously § 94-241 was titled exemptions from annual collection and recycling program special assessment; criteria.

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

- (a) *Exemption application.* The owner of any parcel of improved residential real property within the applicable benefit unit desiring an exemption from the annual collection and recycling program special assessments may make application for such exemption with the Director. The Board of County Commissioners may establish, by resolution, a filing fee, which fee shall accompany the application. The application shall be made on forms provided by the Director and shall provide, at a minimum, the following information:
- (1) The name of the applicant.
 - (2) The legal description of the property for which the exemption is sought.
 - (3) The applicable exemption criteria of section 94-241.
 - (4) The reason the exemption is sought.
 - (5) The applicant of the property will provide certification for compliance with the Board's prohibition of burying or burning of solid waste on private property, unless specifically exempt. In the absence of a specific exemption, the applicant or owner of the property will transport all solid waste generated on the property to one of the County's solid waste management facilities.
- (b) *Filing date.* The application should be filed with the director prior to ~~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.

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- (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.
- (Code 1979, § 12-43; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 30, 1-28-14)

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:

- (1) The remoteness of the excluded area renders it impractical for improved real property located within the excluded area to dispose of solid waste at the existing solid waste disposal facilities.
- (2) The existing land use of the excluded area is agricultural or low density development.
- (3) The applicable land use plan of the county designates the existing and projected land use of the excluded area as agricultural or low density development.
- (4) The excluded area is not in close proximity to any area designated on the applicable land use plan as residential or commercial uses.
- (5) The existing use of the excluded area cannot be anticipated to change within the near future.

(Code 1979, § 12-44)

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.

(Code 1979, § 12-45; Ord. No. 14-03, § 31, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 31, adopted January 28, 2014, amended § 94-244 to read as set out herein. Previously § 94-244 was titled applicability of special assessments to tax-exempt improved real property.

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 ~~D~~irector 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).

(Code 1979, § 12-46; Ord. No. 14-03, § 32, 1-28-14)

Editor's note(s)—Ord. No. 14-03, § 32, adopted January 28, 2014, amended § 94-245 to read as set out herein. Previously § 94-245 was titled vacancy adjustment for improved real property from annual special assessments; criteria.

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 ~~D~~irector. The ~~B~~oard of ~~C~~ounty ~~C~~ommissioners may establish, by resolution, a filing fee which fee shall accompany such petition. The petition shall be filed on forms provided by the ~~D~~irector 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 ~~D~~irector prior to ~~March~~August 31 of the current year.
- (c) *Petition review.* The ~~D~~irector shall review the petition. If the petition meets the criteria set out in section 94-245, the ~~D~~irector 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 ~~D~~irector 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 ~~R~~ate ~~R~~esolution, 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 County 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.

(Code 1979, § 12-47; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 14-03, § 33, 1-28-14)

Secs. 94-247—94-255. Reserved.

DIVISION 3. IMPACT FEES

Sec. 94-256. Solid waste impact fee district established; boundaries.

There is hereby established by the board of county commissioners a solid waste impact fee district, and the boundaries of such district shall be the official boundaries of the county, which includes all of the incorporated and unincorporated areas of the county.

(Code 1979, § 12-48)

Sec. 94-257. Trust fund established.

- (a) There is hereby established a separate solid waste impact fee trust fund for the solid waste impact fee district established by section 94-256.
- (b) Funds withdrawn from this account must be used in accordance with the provisions of section 94-261.

(Code 1979, § 12-49)

Cross reference(s)—Finance, § 2-131 et seq.

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

- (a) A solid waste impact fee, incorporated in the rate resolution adopted under section 94-259, shall be imposed against each parcel of improved real property regardless of occupancy or previous ownership when an application for a building permit is made for an improvement on the property.

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- (b) The applicable solid waste impact fee for such parcel shall be paid by the owner of the improved real property, or the owner of the applicable real property which commences to initially use or increase use of the county's solid waste management facilities.

(Code 1979, § 12-50; Ord. No. 14-03, § 34, 1-28-14)

Sec. 94-259. Public hearing; notice.

- (a) The Board of County 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 County, at least twice, with the first publication being at least 20 days prior to the public hearing.

(Code 1979, § 12-51)

Sec. 94-260. Payment of impact fee.

- (a) The solid waste impact fee shall be billed by the Board of County Commissioners or its authorized representative.
- (b) Impact fees shall be due and payable when the building permit is issued, and payment thereof shall be the obligation of the owner of record of the property for payment of said bill.
- (c) All impact fees collected shall be properly identified as solid waste impact fees, and promptly transferred for deposit in the solid waste impact fee trust fund, to be held in an account as determined in section 94-257 and used solely for the purposes specified in this division.
- (d) Impact fees shall become delinquent if not paid in full within 30 days of the billing date. Failure of the owner to receive any such bill shall not relieve the obligation for payment of the bill. The obligation to pay the impact fee shall run with the property regardless of ownership.
- (e) All impact fees which become delinquent shall constitute, and are hereby imposed as liens against the real property against which the impact fees have been imposed. Until fully paid and discharged, or waived by law, such impacts shall remain a lien equal in rank and dignity with the lien of County ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to, or against the real property involved.
- (f) The solid waste impact fee liens may be recorded in the public records of the County, by the Board of County Commissioners or its authorized representative, at any time after the lien is created, and may be enforced by the Board before or subsequent to such recording, in any manner provided by law.
- (g) Unpaid liens shall remain and constitute liens against the real property involved until fully paid and discharged, or waived by law.
- (h) All outstanding impact fee liens may be discharged and satisfied by payment to the Board or its authorized representative the aggregate amount due for such outstanding impact fees, together with accrued collection fees, applicable interest or other additional amount specified by law for penalties and recording costs. When any such lien or liens have been fully paid or discharged, the Director shall properly cause evidence of the satisfaction and discharge in public records of the county. Such lien or liens shall not be assigned by the County to any person.
- (i) Additionally, the solid waste impact fee may, where interlocal agreements between the County and the local government entity exist, be collected by designated local government entities at the time, place and

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(Supp. No. 129)

from the person who seeks to develop land by applying for a building permit, or is issued a certificate of occupancy.

(Code 1979, § 12-52; Ord. No. 2002-57, § 7, 11-12-02; Ord. No. 14-03, § 35, 1-28-14)

Sec. 94-261. Use of funds.

- (a) The ~~B~~board of ~~C~~ounty ~~C~~ommissioners 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 ~~C~~ounty'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 ~~C~~ounty ~~M~~anager may present to the ~~B~~board of ~~C~~ounty ~~C~~ommissioners 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.

(Code 1979, § 12-53; Ord. No. 97-25, § 1, 7-22-97)

Sec. 94-262. Refund of fees paid.

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

(Code 1979, § 12-54; Ord. No. 97-25, § 1, 7-22-97)

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.

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- (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 Director. Any exemption not so claimed shall be deemed waived by the fee payer.
- (Code 1979, § 12-55; Ord. No. 97-25, § 1, 7-22-97; Ord. No. 2002-57, § 8, 11-12-02; Ord. No. 14-03, § 36, 1-28-14)

Sec. 94-264. Notice of impact fees.

- (a) The Board of County Commissioners shall provide a notice of solid waste impact fees, on such form as deemed appropriate by the Board, to each applicant for a building permit in the unincorporated areas of the county.
- (b) The Board shall provide a solid waste impact fee notice to the building departments of each of the municipalities within the County. 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.
- (Code 1979, § 12-56; Ord. No. 97-25, § 1, 7-22-97)

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.

(Code 1979, § 12-57)

Secs. 94-266—94-275. Reserved.

DIVISION 4. SPECIAL RATES AND DEPOSITS⁵

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:

⁵Editor's note(s)—Ord. No. 2002-57, § 9, adopted November 12, 2002, changed the title of division 4 from "handling and disposal fees and deposits" to "special rates and deposits." The historical notation has been retained for reference purposes.

- (1) Pay such deposits as established by the Bboard; and
- (2) Pay such special rates as established by Bboard for the disposal of such solid waste.

(Code 1979, § 12-58; Ord. No. 2002-57, § 9, 11-12-02; Ord. No. 14-03, § 37, 1-28-14)

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 Bboard or authorized representative shall bill individuals for the handling and disposal of solid waste not included in the annual disposal special assessment in accordance with the special Rates Resolution adopted by the board.
- (d) Deposits for disposal and bills for special rates for solid waste handling and disposal are due when rendered and are the obligations of persons disposing of such solid waste.
- (e) If the full amount due is not paid within 30 days of the billing date, the bill becomes delinquent. If the bill becomes delinquent the Bboard 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 Bboard may be discontinued.
- (f) Delinquent bills shall be enforced by the Bboard in any manner provided by law.
- (g) Delinquent bills may be discharged and satisfied by payment to the Bboard 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.~~

(Ord. No. 2002-57, § 9, 11-12-02; Ord. No. 08-42, § 20, 10-14-08; Ord. No. 14-03, § 38, 1-28-14)

Editor's note(s)—Ord. No. 2002-57, § 9, adopted November 12, 2002, amended § 94-277 in its entirety to read as herein set out. Formerly, § 94-277 pertained to payment of deposits, handling and disposal fees, delinquency and collection, and derived from the Code of 1979, § 12-59.

Secs. 94-278—94-285. Reserved.

ARTICLE V. HAZARDOUS WASTE MANAGEMENT⁶

Sec. 94-286. Definitions.

For the purpose of this article, the following words, terms and phrases shall have the following meanings:

Acute hazardous waste means any waste defined in 40 CFR 261.11(2), as amended or revised.

Board means the Board of County Commissioners of Brevard County, Florida.

CFR means Code of Federal Regulations.

~~*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.~~

Division means Brevard County Natural Resources Management Division.

EPA means United States Environmental Protection Agency.

FAC means Florida Administrative Code.

FDEP means Florida Department of Environmental Protection.

Hazardous waste means any waste listed or identified in 40 CFR 261.3, as amended or revised, or a mixture of such wastes.

Hazardous waste generator means those businesses, industries, individuals or entities, whose act or process produces hazardous waste identified or listed in 40 CFR 261.3, or whose act or process first causes a hazardous waste to become subject to regulation.

Known hazardous waste generator means those businesses, industries, individuals or entities that acknowledge that they are hazardous waste generators, or have been determined to be a hazardous waste generator by the division under the provisions of this article.

Notice of determination means the division's written notice, after inspection of the generator's facility, that, in the opinion of the division, the business generates hazardous waste and is subject to the provisions of this article.

Presumed hazardous waste generators means those businesses, industries, individuals or entities that, by the nature of the business or industry, may generate hazardous waste, in the opinion of the division.

Small quantity generator means those businesses, industries, individuals or entities which:

⁶Editor's note(s)—Ordinance No. 94-23, adopted November 1, 1994 did not specifically amend the Code. Therefore, inclusion of §§ 1—7 as §§ 94-286—94-292 was at the discretion of the editor.

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- (1) Produce more than 100 kilograms (220 lbs.), but less than 1,000 kilograms (2,200 lbs.) per month (half a drum to five 55 gallon drums) of hazardous waste; and/or,
 - (2) Produce less than one kilogram (2.2 lbs.) of an acute hazardous waste; and,
 - (3) Never store more than 6,000 kilograms (13,200 lbs.) of hazardous waste.

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.

(Ord. No. 94-23, § 1, 11-1-94)

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.

(Ord. No. 94-23, § 2, 11-1-94)

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.

(Ord. No. 94-23, § 3, 11-1-94)

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 Itax 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 Itax Receipt applicant is a hazardous waste generator based on the applicant's business code submitted to the county Itax Collector for the purposes of obtaining or renewing a County Business Itax 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

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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**usiness **T**ax **R**eceipt, along with the license applicant/holder's regular notice of the **B**usiness **T**ax **R**eceipt 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.

(Ord. No. 94-23, § 4, 11-1-94; Ord. No. 2007-003, § 41, 2-20-07)

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) FDEPB "Guidelines to Conduct the County Small Quantity Generator Assessment, Notification and Verification Program."
 - (2) 40 CFR Pars 260 through 268.

(Ord. No. 94-23, § 5, 11-1-94)

Sec. 94-291. Compliance and enforcement.

The **B**oard of **C**ounty **C**ommissioners authorizes the division to perform compliance inspections of presumed and known small quantity generator facilities located in the **C**ounty 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.

(Ord. No. 94-23, § 6, 11-1-94)

Sec. 94-292. Fees.

- (a) The **B**oard of **C**ounty **C**ommissioners 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.

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- (b) No initial or annual **B**usiness **T**ax **R**eceipt shall be issued by the **C**ounty **T**ax **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**usiness **T**ax **R**eceipt 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**usiness **T**ax **R**eceipt 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 **T**ax **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**usiness **T**ax **R**eceipt 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.

(Ord. No. 94-23, § 7, 11-1-94; Ord. No. 2007-003, § 42, 2-20-07)

Secs. 94-293—94-305. Reserved.

ARTICLE VI. ABANDONED PROPERTY⁷

Sec. 94-306. Purpose and intent.

Since vehicles or parts thereof, are and will in the future be abandoned on public and private property within the unincorporated areas of Brevard County; and since there are or may in the future be abandoned partially dismantled, non-operating, wrecked, or junked vehicles, or parts thereof, about the unincorporated areas of the county other than in permitted junkyards; and since such conditions tend to impede traffic in the streets and waterways of the county; interfere with the enjoyment of public and private property, reduce the value of property, invite plundering, creates fire hazards, and other safety and health hazards to children and adults, and interferes with the comfort and well-being of the public; the purpose of this ordinance is to provide adequate protection of the public health, safety and welfare, which requires that such conditions be regulated, abated or prohibited.

(Ord. No. 01-73, § 2, 11-20-01)

⁷Editor's note(s)—Ord. No. 2001-73, §§ 1—13, adopted November 20, 2001, enacted provisions intended for use as ch. 46, art. VI. Per the direction of the county, said provisions have been redesignated as ch. 94, art. VI.

Sec. 94-307. Findings of fact.

- (a) Aesthetic views on private property, especially those residentially or agriculturally zoned, relate to the general welfare of the people of the county through the tendency of aesthetic views to preserve or enhance the value of private property.
- (b) The visual presence on private property, especially those residentially or agriculturally zoned, of wrecked, discarded, dismantled, partly dismantled, inoperative, abandoned, or severely rusted motor vehicles, and/or motor vehicles which, if covered, are covered with something other than a standard cover, is an unpleasant sight to the eyes of the reasonable man or woman of average sensibilities.
- (c) The visual presence on private property of unpermitted storage or parking of wrecked, discarded, dismantled, partly dismantled, inoperative, abandoned, or severely rusted motor vehicles, and/or motor vehicles which, if covered, are covered with something other than a standard cover, is a visual nuisance in that it tends to depreciate the value of neighboring private property, thereby injuring the general welfare of the people of the county.

(Ord. No. 01-73, § 3, 11-20-01)

Sec. 94-308. Definitions.

For the purposes of this article, the following definitions shall apply in the interpretation, enforcement and intent of this article. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Abandoned, inoperative, or discarded motor vehicle means any vehicle, or part thereof, to which the last registered owner of record has relinquished all apparent dominion and control or any vehicle, or part thereof, which has been left on private property for which no arrangement has been made for its removal or storage with the owner or occupant of the premises upon which it is located within a period of thirty (30) days from the date such vehicle, or part thereof, was left on said private property; or as defined in § 705.101 Florida State Statutes for any vehicle, or part thereof, left on public property.

Board means the board of county commissioners of Brevard County, Florida.

Carport means an open-sided structure which is used solely for the parking of motor vehicles which belong to the occupant(s) of the principal structure.

County means Brevard County, Florida.

Dismantled motor vehicle means a motor vehicle which has been completely separated into pieces or components for a period of at least seven days.

Enforcement officer means the sheriff of Brevard County and his deputies or any other officer or employee of Brevard County or an independent contractor designated by resolution of the board of county commissioners of Brevard County to enforce the provisions of this article.

Garage means a walled accessory structure or walled portion of the principal structure, excluding a carport, which is used for the parking of motor vehicles which belong to the occupant(s) of the principal structure.

Inoperative motor vehicle means a motor vehicle which has not been operable for a period of at least 30 days.

Junked vehicle means any vehicle or trailer, or part thereof, which is in a wrecked, dismantled, partially dismantled, inoperative, worn-out condition, or severely rusted which condition is such that the vehicle, or part

thereof, or could not be reasonably repaired or in a severely deteriorated condition not capable of use as means of transportation; or a junked vessel.

Junked vessel means any vessel which is wrecked, dismantled, partially dismantled, or discarded, and which is inoperable or in a severely deteriorated condition not capable of use as means of transportation on water.

Motor vehicle means a machine designed to travel along the ground by use of wheels, treads, runners or slides and which is designed or intended to transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon, or any other vehicle which is self-propelled.

Parked means the standing of a motor vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or embarking or disembarking passengers.

Partly dismantled motor vehicle means a motor vehicle which has been partially separated into pieces or components for a period of at least seven days.

Person means any individual, corporation, firm, partnership, association, organization or any group acting as a unit.

Public property means lands and improvements owned by the Federal Government, the State of Florida, a county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-ways, and other similar property.

Private property means all real property owned by any person, as defined herein, and which is not public property.

Severely rusted motor vehicle means a motor vehicle which, excluding its windows, windshield, and underside, is rusted on at least 50 percent of its body exterior.

Special master means the Brevard County code enforcement special master or the Brevard County code enforcement board.

Standard cover means a non-transparent cover which is designed, manufactured and intended to be used exclusively for the purpose of fitting over the type of motor vehicle in question.

Street or highway means the entire width between the boundary lines of every publicly owned or maintained way when any part thereof is open to the use of the public for purposes of vehicular travel.

Vessels means any kind, type and description of boat, ship, watercraft or airboat used or capable of use as a means of transportation on water, other than seaplanes.

Waterways means any navigable or non-navigable river, lake, pond, stream, spring, lagoon and all other waters or bodies of water including fresh, brackish, saline, tidal surface or other waters within the unincorporated area of Brevard County, Florida.

Wrecked motor vehicle means a motor vehicle which is in a state of ruin or dilapidation or in a condition of broken, disrupted, and disordered parts.

(Ord. No. 01-73, § 4, 11-20-01)

Sec. 94-309. Opposing, obstructing, or resisting enforcement officer.

No person shall oppose, obstruct or resist any enforcement officer or any person authorized by the enforcement officer in the discharge of his duties, as provided in this article.

(Ord. No. 01-73, § 5, 11-20-01)

Sec. 94-310. No liability for reasonable, good faith trespass by enforcement officer.

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon private property while in the discharge of duties imposed by this article.

(Ord. No. 01-73, § 6, 11-20-01)

Sec. 94-311. Storage requirements for junk or abandoned vehicles.

The maximum number and storage requirements of junked or abandoned vehicles on residentially zoned and agriculturally zoned properties are as follows:

- (1) Unlimited number in a garage or other completely enclosed structure; or
- (2) No more than one per lot located in a rear yard completely screened on all four sides and which does not exceed the height of, an opaque visual barrier; or
- (3) No more than one which is visible anywhere on the lot if located in a carport with a standard cover.

(Ord. No. 01-73, § 7, 11-20-01)

Sec. 94-312. Stored or parked, junked or abandoned vehicles, or parts thereof, on private property prohibited.

It shall be unlawful for any person to park, store or leave; or permit the parking, storing or leaving of any junked, inoperable, or abandoned vehicle, or part thereof, upon any private property within the unincorporated areas of the county unless such vehicle, or part thereof, is in compliance with the provisions of section 94-311, or is completely enclosed within a building or unless such vehicle, or part thereof, is stored or parked on private property in connection with a duly licensed business or enterprise operated and conducted for the repair or storage of vehicles in full compliance with all applicable laws, ordinances and regulations.

(Ord. No. 01-73, § 8, 11-20-01)

Sec. 94-313. Prima facie evidence of abandonment, junked vehicle.

The following circumstances provide prima facie evidence that a vehicle has been abandoned or junked.

- (1) The absence of a license plate for the current year and/or the absence of a current vehicle registration shall be prima facie evidence that such vehicle has been abandoned, junked or discarded, unless such vehicle type is not required to be registered with the state because of its designed use qualifies for an exemption under Chapter 320 of Florida State Statutes; or
- (2) Prima facie evidence includes whether the vehicle is usable for its intended purpose or incapable of operating under its own power due to extensive damage, disassembly, deterioration, or the extensive accumulation of trash or undergrowth in or around the vehicle indicating disuse; or
- (3) Any vehicle which causes the property to become infested or inhabited by rodents, vermin or wild animals, or which may furnish a breeding place for mosquitos or threaten the public health, safety or welfare, or may reasonably adversely effect aesthetics and impair the economic welfare of the adjacent property shall be prima facie evidence of that a vehicle is abandoned or junked.

(Ord. No. 01-73, § 9, 11-20-01)

Sec. 94-314. Stored or parked junked or abandoned vehicles, or parts thereof, on public property.

It shall be unlawful for any person to park, store, or leave, permit the parking, storing or leaving of any junked, inoperable junked or abandoned vehicles, or parts thereof on any public property within the unincorporated area of the county. For the purpose of this section the waterways within the unincorporated area of the county shall be considered public property. Such vehicles are subject to removal by an enforcement officer following the procedures set forth in Chapter 705 of the Florida Statutes.

(Ord. No. 01-73, § 10, 11-20-01)

Sec. 94-315. Enforcement; abatement of visual nuisance.

- (a) Whenever an enforcement officer ascertains that a motor vehicle is parked on private property in violation of section 94-311 and/or section 94-312, he shall follow the procedure set forth in Chapter 2 of the County Code. Unless specified otherwise under this article, the hearing shall be conducted pursuant to the procedures of chapter 2 of the County Code and Chapter 162 of the Florida State Statutes.
- (b) After considering the evidence and testimony, the code enforcement special master shall make a factual determination as to whether the junked or abandoned vehicle is parked in violation of section 94-311 and/or section 94-312. If the code enforcement special master makes a factual determination that a junked or abandoned vehicle is parked in violation of this article, in addition to a fine assessed pursuant section 2-176 of the County Code, the special master shall order the enforcement officer to attempt to remove the junked or abandoned vehicle if the vehicle has not been removed by the owner or any other interested person within 35 days after the date of its factual determination that the vehicle is parked in violation of this article.
- (c) The enforcement officer shall first attempt to retain a private contractor to remove the junked or abandoned vehicle pursuant to § 713.78 of the Florida Statutes at no cost to the county. If no private contractor is available, the enforcement officer shall certify to the special master the expense incurred by the county in removing and storing such vehicle, or part thereof, and the cost of administration incurred in such removal or storage. Such costs shall be placed as a lien on the property. The county may also file a lien against the vehicle pursuant to § 713.78 of the Florida State Statutes.
- (d) If the enforcement officer is unable to remove the junked or abandoned vehicle, the board authorizes the county manager or designee to instruct the county attorney's office to seek a court ordered injunction to remove the junk or abandoned vehicle from the property.
- (e) The county may enforce this article by any other means provided by law.

(Ord. No. 01-73, § 11, 11-20-01)

Sec. 94-316. Responsibility.

The owner, renter, or agent of the private property upon which a violation of section 94-311 and/or section 94-312 occurs and the owner of the motor vehicle which is parked in violation of section 94-311 and/or section 94-312 shall be jointly and individually responsible for not complying with section 94-311 and/or section 94-312.

(Ord. No. 01-73, § 12, 11-20-01)

Sec. 94-317. Entry upon private property for notice or removal authorized.

The enforcement officer and his designated representative shall be immune from civil or criminal prosecution, for all reasonable, good faith actions taken while in the discharge of the duties imposed by this article.

(Ord. No. 01-73, § 13, 11-20-01)

Secs. 94-318—94-336~~29~~. Reserved.

~~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)~~