



Interoffice Memorandum

10-05-16A10:50 RCVD

October 6, 2016

10-05-16A11:45 RCVD

TO: Katie Smith, Manager Deputy Clerk Comptroller Clerk's Office

THRU: Cheryl Gillespie, Agenda Development

FROM: Raymond E. Hanson, P. E., Director, Utilities Department

for Ray Hanson

Contact: James Becker, Manager
Solid Waste Division

RE: Request for Public Hearing – November 1, 2016;
To adopt amendments to Chapter 32, Article IV of the Orange County Code; Relating to Bear Management; Amending the Orange County Ordinance Codified at Article IV, Chapter 32, of the Orange County Code; Amending Section 32-153; Definitions; Amending Section 32-155, Rules, Regulations, and Program Requirements; Amending Section 32-160, Full Solid Waste and Recycling Collection Service, Amending section 32-178, Residential Franchise, Commercial License and Registration Requirements; And Providing for an Effective Date.

Applicant: N/A

Location: District: All

Estimated time required for public hearing: 2 minutes

Hearing controversial? No

Advertising requirements: Publish once in the legal classified section of the Orlando Sentinel

Advertising timeframes: Place ad at least 10 days prior to November 1, 2016.

Applicant/Abutters to be notified: N/A

Hearing required by Fla. Statute # or code: Section 125.66(2)(a), Florida Statutes (regular enactment procedure)

*November 1, 2016
@ 2pm*



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Request for Public Hearing – November 1, 2016 – Bear Management
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Spanish Contact Person:

Para más información, por favor llame al Departamento de Servicios Públicos del Condado de Orange y pida hablar con un representante en español. El número de teléfono es 407-836-6601.

Materials being submitted as backup for public hearing request:

1. Notice of Public Hearing/Sample
2. Bear Management Ordinance (will be provided on or before the date the newspaper ad is published).

SPECIAL INSTRUCTIONS TO CLERK (IF ANY):

1. Please contact James Becker at 407-254-9666 to have the legal notice proofed and approved prior to publication.
2. Please return three (3) executed copies of the ordinance to Luci Rowe, Utilities Department.
3. In the notice of public hearing, the contact information should be as follows:
Orange County Utilities Solid Waste Division
407-836-6601
E-mail: Solid.Waste@ocfl.net

- c: Ajit Lalchandani, P.E., County Administrator
Christopher R. Testerman, AICP, Assistant County Administrator
Todd P. Swingle, P.E., Deputy Director, Utilities Department
Teresa Remudo-Fries, P.E., Deputy Director, Utilities Department
Andres Salcedo, P. E., Assistant Director, Utilities Department
Tim Armstrong, Assistant Director, Utilities Department
Anthony Cotter, Assistant County Attorney, Orange County Attorney's Office
James W. Becker, Manager, Solid Waste Division, Utilities Department

ORANGE COUNTY NOTICE OF PUBLIC HEARING

**IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, CONTACT THE ORANGE COUNTY
SOLID WASTE DIVISION, 407-836-6601
Email: Solid.Waste@ocfl.net**

**PARA MÁS INFORMACIÓN, POR FAVOR LLAME AL DEPARTAMENTO DE SERVICIOS
PÚBLICOS DEL CONDADO DE ORANGE Y PIDA HABLAR CON UN REPRESENTANTE EN
ESPAÑOL. EL NÚMERO DE TELÉFONO ES 407-836-6601.**

The Orange County Board of County Commissioners will conduct a public hearing on **October 18, 2016 at 2:00 p.m.**, or as soon thereafter as possible, in the County Commission Chambers, First Floor, County Administration Center, 201 South Rosalind Avenue, Orlando, Florida. You are invited to attend and be heard regarding the following proposed ordinance:

AN ORDINANCE: AN ORDINANCE AFFECTING SOLID WASTE IN ORANGE COUNTY, FLORIDA, RELATING TO BEAR MANAGEMENT; AMENDING THE ORANGE COUNTY ORDINANCE CODIFIED AT ARTICLE IV, CHAPTER 32, OF THE ORANGE COUNTY CODE; AMENDING SECTION 32-153, DEFINITIONS; AMENDING SECTION 32-155, RULES, REGULATIONS, AND PROGRAM REQUIREMENTS; AMENDING SECTION 32-160, FULL SOLID WASTE AND RECYCLING COLLECTION SERVICE; AMENDING SECTION 32-178, RESIDENTIAL FRANCHISE, COMMERCIAL LICENSE AND REGISTRATION REQUIREMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

You may examine the notice and the proposed ordinance at the office of the Comptroller Clerk of the Board of County Commissioners, 201 South Rosalind Avenue, Fourth Floor; Orlando, Florida; between 8 a.m. and 5 p.m., Monday through Friday.

If you wish to appeal any decision made by the Board of County Commissioners at this meeting you will need a record of the proceedings. You should ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you require special accommodations under the Americans with Disabilities Act of 1990, please call 407-836-5631 no later than two business days prior to the hearing for assistance. Si usted requiere ayuda especial bajo la ley de Americanos con Incapacidades de 1990, por favor llame al 407-836-3111.

Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners
Orange County, Florida

Publish: On or before **October 16, 2016**; the Orlando Sentinel Legal Classified
Certify: Ordinance pertaining to garbage services within bear management areas

c: All Board Members' Offices [email]
County Attorney's Office, BCC [Kimberly Cundiff email]
Chris Testerman, Assistant County Administrator, BCC [email]
James Becker, Solid Waste Division, Utilities, BCC [email]
Mike Seif, Orange TV, BCC [email]
Public Drawer

AN ORDINANCE AFFECTING SOLID WASTE IN ORANGE COUNTY, FLORIDA RELATING TO BEAR MANAGEMENT; AMENDING THE ORANGE COUNTY ORDINANCE CODIFIED AT ARTICLE IV, CHAPTER 32, OF THE ORANGE COUNTY CODE; AMENDING SECTION 32-153, DEFINITIONS; AMENDING SECTION 32-155, RULES, REGULATIONS, AND PROGRAM REQUIREMENTS; AMENDING SECTION 32-160, FULL SOLID WASTE AND RECYCLING COLLECTION SERVICE; AMENDING SECTION 32-178, RESIDENTIAL FRANCHISE, COMMERCIAL LICENSE AND REGISTRATION REQUIREMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendments to Section 32-153 ("Definitions"). Section 32-153 ("Definitions") is amended to read as follows, with any new wording being indicated by underlines and any deleted wording being shown by strike-throughs:

Sec. 32-153. – Definitions.

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

Annual rate of compensation shall mean the amount of money per residential premises, within each franchise area, to be fixed and paid by the county to the individual franchisees for full solid waste and recycling collection services rendered by the franchisees for residential premises within the sanitation district.

Applicant shall mean:

- (1) A person applying to the county for the commercial license required to collect or transport solid waste for hire or remuneration or other consideration within the unincorporated county or county-wide as specified herein; or

- 42 (2) A person applying to the county for the registration certificate
44 required to collect, process, convey or transport recovered
materials for hire or remuneration or other consideration
within Orange County

46 *Appropriate disposal and/or recycling site* shall mean the place or
48 places that are properly zoned, permitted, registered, or licensed in
accordance with all applicable local and state laws for the disposal of solid
50 waste and/or the processing of recyclable materials.

52 *Bear management area* shall mean an area within Orange County
54 in which there is a high incidence bear/human interactions recorded by the
56 Florida Fish and Wildlife Conservation Commission, occurring at a level
that poses a potential threat to the health, safety, and welfare of the
citizens and visitors to Orange County, and is designated as such by the
Director.

58 *Bear resistant commercial refuse container* shall mean a
60 commercial refuse container with a reinforced lid and a latching
mechanism, or other County-approved method that prevents access to the
62 contents by bears.

64 *Biohazardous waste* shall mean those wastes which may cause
disease or reasonably be suspected of harboring pathogenic organisms;
66 including, but not limited to, waste resulting from the operation of medical
clinics, hospitals, and other facilities producing wastes which may consist
68 of, but are not limited to, diseased human and animal parts, dead animals,
contaminated bandages, pathological specimens, hypodermic needles,
contaminated clothing, surgical gloves and other biological wastes.

70 *Biological waste* shall be as defined in F.S. ch. 403.
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74 *Bulk trash* shall mean any nonvegetative item which cannot be
containerized, bagged, or bundled; including, but not limited to, automobile
76 tires, household appliances, toilets, pool heaters, water softeners, pianos,
bath tubs, water heaters, sinks, bicycles, household goods and furniture
and shall not be commingled with yard waste. Bulk trash shall not mean
78 any Freon-containing devices.

80 *Commercial customer* shall mean a person who receives
commercial services as provided in this article.
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84 *Commercial generator* shall mean a person who owns or controls a
site in unincorporated Orange County, other than a residential premises,
which is the point of origination of solid waste or recovered materials, and
86 is eligible to receive commercial services as provided in this article;

provided, however, provisions of this ordinance could be applicable in an incorporated municipality by interlocal or other agreement or by law.

Commercial licensee or licensee shall mean those persons that have filed an application with, and received a license from, Orange County to provide solid waste collection and transport services in unincorporated Orange County. Commercial licensees shall be those persons that provide commercial service to one (1) or more of the following categories:

- (1) Multifamily - collection of solid waste from residential dwellings and mobile home parks not otherwise provided full service.
- (2) Construction and demolition - collection of construction and demolition debris only.
- (3) Other commercial - collection of solid waste from commercial generators not covered under (1) and (2).

Commercial service shall mean the mechanical containerized pickup or container pickup of solid waste or yard waste provided by a commercial licensee to any licensed mobile home park exceeding four (4) dwelling units, and to multifamily residences exceeding four (4) dwelling units, under one (1) common roof, and to business, commercial or industrial enterprises of all types licensed to do business in the county.

Commercial service container shall mean an industry standard container made for commercial collection which is constructed of an acceptable nonabsorbent material.

Consumer shall mean a person directly benefitting from full solid waste and recycling collection service as provided by this article, who possesses or resides at a residential premises entitled to full solid waste and recycling collection service.

Container shall mean a garbage, trash or yard waste container made of an acceptable nonabsorbent material provided with a closely-fitting cover. The type and capacity of the container shall be as specified in the program requirements developed pursuant to this article.

De minimus quantities, in appropriate context, shall be defined as:

- (1) No more than ten (10) percent by volume of designated recyclable materials in a solid waste load delivered to a county facility or a facility under contract with the county;

134 (2) No more than ten (10) percent by volume of solid waste in a
136 recovered materials container at the point of generation.

138 *Designated recyclable materials* shall mean those recyclable
140 materials that are designated pursuant to section 32-155 of this article.

142 *Director* shall mean the Orange County Utilities Director or his/her
144 designee.

146 *Disabled persons* shall mean persons who are certified by a
148 licensed physician to be physically unable to transport garbage and/or
150 recycling materials to curb or road frontage area from other areas of the
152 person's residential property and who reside alone or reside only with
154 other persons likewise unable to transport garbage and/or recyclable
156 materials to curb or road frontage area.

158 *Division* shall mean the Orange County Solid Waste Division.

160 *Franchisee* shall mean a corporation that has been awarded a
162 contract by, or entered into an agreement with the county, to provide full
164 solid waste and recycling collection services.

166 *Franchise agreement* shall mean any agreement or contract
168 executed between the board and a corporation for the provision of full
170 solid waste and recycling collection services.

172 *Franchise areas* shall mean geographical areas in the county which
174 are identified and defined for purposes of facilitating the orderly collection
176 and transportation of residential waste materials and designated
178 recyclable materials.

Freon-containing devices shall mean appliances or devices which
contain or may release freon, including, but not limited to refrigerators,
freezers, air conditioners, and dehumidifiers.

Full solid waste and recycling collection service, (also known as
"full service") shall mean the mandatory curbside and rear door collection
service of garbage, designated recyclable materials, yard waste and bulk
trash provided pursuant to this article to those consumers owning or
possessing property located in unincorporated Orange County.

Garbage shall mean all putrescible waste, all animal or vegetable
refuse or residue that results from the preparation of or care for or
treatment of foodstuffs intended to be used as food, or that results from
preparation or handling of food for human consumption, any decayed or
unsound meat, fish, or vegetable, and the containers used in the

180 preparation of such foodstuffs, and other discarded household items not
182 otherwise defined as biohazardous waste, hazardous waste, bulk trash,
designated recyclable materials, prohibited residential wastes, or yard
waste.

184 *Hazardous waste* shall mean solid waste regulated by the State of
186 Florida Department of Environmental Protection as a hazardous waste
pursuant to Chapter 62-730, Fla. Admin. Code.

188 *Household items* shall mean material such as packaging, small
190 appliances, bicycles, records, pet wastes, common household materials,
materials from minor home repairs, minor remodeling projects and from
192 hobby activities generated by a consumer at a residential premises and
which are not included in the definition of garbage, yard waste, bulk trash,
hazardous waste, biological waste or prohibited residential wastes.

194 *Mobile home park* shall mean a community of mobile homes where
196 individual mobile home lots are in a common ownership.

198 *Mobile home subdivisions* shall mean a community of mobile
homes where individual mobile home lots are individually owned.

200 *Municipality* shall mean any one (1) of the cities located within
202 Orange County.

204 *Orange County* shall mean those incorporated and unincorporated
206 areas located within Orange County, Florida, unless otherwise specified.

208 *Person* shall mean all natural persons, partnerships, corporations,
or entities of any kind. For the purposes of this article, a person shall not
210 include a municipality.

212 *Program requirements for full solid waste and recycling collection*
service (also known as "program requirements") shall mean requirements,
214 processes and procedures developed by the director or designee for
participation in the full solid waste and recyclable collection services
216 provided by the county. Such requirements may specify required container
type and capacity, requirements for placement of garbage, bulk trash, yard
218 waste and recyclables and other requirements deemed necessary for
orderly collection of garbage, yard waste and recyclables.

220 *Prohibited residential wastes* shall mean wastes that require special
handling and management including, but not limited to, Freon-containing
222 devices, used oil, lead-acid batteries, automobiles, boats, internal
combustion engines, sludge, dead animals, septic tank waste,
224 biohazardous waste, liquid waste, and hazardous waste. Prohibited

residential wastes may also include items determined by the director or designee to be unmanageable.

Rates shall mean those charges and fees adopted by the board by resolution or contract for the management of solid waste and recovered materials. Rates adopted by the board shall be administered by the solid waste division. This definition shall also mean those charges and fees collected by commercial licensees or registrants. Provided, however, that this article is not intended to authorize Orange County to establish rates charged by commercial licensees or registrants to commercial generators.

Recovered materials shall be as defined in F.S. ch. 403.

Recycling area or recycling sites shall mean any site, location, tract of land, area, building, structure, transfer box, transfer station or other premises to be used for recycling of recovered materials or accumulation for the county's recycling program as approved by the director.

Recycling container shall mean containers approved by the director for residential recycling collection, as specified in the program requirements.

Recycling program or program shall mean the recycling program approved by the board on February 20, 1989, as such program may be amended from time to time.

Refuse shall mean any waste that could reasonably attract bears including, but not be limited to: kitchen organic waste, food, food packaging, toothpaste, deodorant, cosmetics, spices, seasonings and grease.

Registrant shall be those persons who have filed an application with the county to collect, transport, convey or process recovered materials in Orange County and have subsequently received a registration certificate from the county. Municipalities shall not be subject to registration except as provided in the interlocal agreement with the county.

Residential franchise shall mean a franchise awarded by the board to a collector of residential waste materials and recyclables, pursuant to the provisions of this article, wherein the franchisee agrees to be bound by the terms of this article and to provide full solid waste and recycling service to the designated area in accordance with the terms of a residential franchise agreement entered into by the county and the franchisee.

Residential premises shall mean every lot or parcel of land which is

improved for occupancy as a single-family residence, duplex, triplex, quadplex or mobile home park not exceeding four (4) units. For purposes of calculating the number of residential premises, each dwelling unit shall constitute a separate unit.

Residential waste materials shall mean residential garbage, yard waste and bulk trash designated for collection under the full solid waste and recycling collection service program.

Scavenging shall mean the act of removing materials from containers at curbside, or other areas designated by Orange County for collection, without the specific written permission of the county.

Solid waste shall be as defined in F.S. ch. 403.

Special wastes shall be as defined in F.S. ch. 403.

Yard waste shall mean waste that is vegetative matter resulting from landscaping maintenance from that premises from which the waste is generated and includes material such as tree and shrub trimmings, grass clippings, palm fronds, tree leaves, and tree stumps.

Section 2. Amendments to Section 32-155 ("Rules, regulations, and program requirements"). Section 32-155 ("Rules, regulations, and program requirements") is amended to read as follows, with any new wording being indicated by underlines and any deleted wording being shown by strike-throughs:

Sec. 32-155. – Rules, regulations, and program requirements.

(a) By resolution, the board of county commissioners may from time to time enact and amend reasonable rules and regulations to implement and carry out the provisions of this article. However, the director shall have the authority to establish, modify, implement and enforce appropriate program requirements, processes and procedures to allow for orderly collection of residential waste materials and recyclables under the full service collection program.

(b) The Bear Management program provides for a container replacement program to reduce human-bear interactions, which will be implemented throughout the unincorporated areas of the county, applying additional restrictions within Bear Management Areas as designated by the Director following consultation with the County's environmental protection officer and the Florida Fish and Wildlife Conservation Commission.

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Section 3. Amendments to Section 32-160 ("Full solid waste and

recycling collection service"). Section 32-160 ("Full solid waste and recycling

collection service") is amended to read as follows, with any new wording being indicated

by underlines and any deleted wording being shown by strike-throughs:

Sec. 32-160. – Full solid waste and recycling collection service.

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(a) *Compliance with article.* All persons owning or possessing property entitled to full solid waste and recycling service are required to accept full service as set forth in this article, and shall dispose and recycle residential waste materials and designated recyclables generated on the property only through the full service provided pursuant to this article and shall comply with the relevant provisions of this article and the program requirements. However, this article shall not preclude a consumer from occasionally transporting residential waste materials and designated recyclables generated on their own property to an appropriate disposal or recycling site.

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(b) *Curbside pickup.* All persons owning or possessing property entitled to full solid waste and recycling service shall receive such service in accordance with the program requirements. The franchisee shall collect garbage, designated recyclables, yard waste and bulk trash placed at the curb or roadside according to the provisions of the residential franchise agreements. Franchisees shall not collect any prohibited residential wastes. A consumer's bulk trash may not be collected if determined by the director to be incompatible with collection equipment or the county's waste management system or of such weight or quantity as would significantly hinder the effectiveness of the collection or disposal system.

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(c) *Rear door pickup.* The franchisee shall collect garbage and designated recyclable materials from the residences of disabled persons from the side or rear of the house within an area no further than one hundred (100) feet from the curb or other public road frontage in accordance with the residential franchise agreement. All such rear door pickup shall be on days designated by the director, except during weeks which have holidays as approved by the director.

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(d) *Ownership.* From the time of placement of garbage, designated recyclable materials, yard waste and bulk trash for franchisee collection at the curb or other approved area by any consumer pursuant to the full solid waste and recycling collection program and the requirements hereunder, such materials shall become and be the property of the county. It shall be unlawful for any

person (other than the franchisee, authorized personnel of the county, or other persons authorized by the county) to collect, pick up, or cause to be collected or picked up, any such garbage, designated recyclable materials, yard waste and bulk trash except as provided herein. This shall not preclude consumers from voluntarily recycling their own solid waste or recyclable materials prior to placement of the materials at curbside.

(e) *Right to inspect containers.* From the time of placement by any consumer or commercial generator at the curb or other approved area, the franchisee, licensee, and/or the county, including any county employee designated by the director, shall have the right to inspect containers and recycling containers for compliance with this article.

(f) *Placement of residential waste materials and recyclables.*

(1) *Minimum Countywide Standards.* Except as otherwise provided, all consumers shall place residential waste materials and designated recyclables within three (3) feet, or as near to the paved or improved roadway abutting the consumer's property as safely possible on days designated by the director for garbage, designated recyclable materials, yard waste and bulk trash collection. Consumers who reside on a private road must allow access onto such road or must place the residential waste materials and recyclables within three (3) feet, or as near as safely possible, to the nearest accessible public right-of-way. Consumers who reside on a dirt road, if not accessible to collection vehicles as determined by the director, shall place the residential waste materials and recyclables within three (3) feet, or as near as safely possible, to the nearest accessible public right-of-way. Consumers shall place such residential waste materials and recyclables in a location allowing for unobstructed collection. Placement and containerization shall be in accordance with this article and the program requirements. The director shall have the authority to approve or specify the precise location for placement of residential waste materials and recyclables for collection. Placement shall be made by consumers no earlier than 6:00 p.m. on the day preceding the designated collection day. Franchisees may begin collection of residential waste materials and recyclables at 6:00 a.m. on designated collection days. The consumer's residential waste materials and recyclables should be placed curbside by 6:00 a.m. on designated collection days to ensure collection. The consumer's residential waste materials and recyclables will not be collected if they are placed curbside after the franchisee has serviced the consumer's area, provided that the franchisee began collection after 6:00 a.m. Containers shall be removed from the roadside

398 within twelve (12) hours of collection.

400 (2) Additional Restrictions within Bear Management Areas. County-
402 issued roll carts containing household garbage must be maintained
404 in a secured area and placed at the curb for collection between
406 4:00 a.m. and 6:00 a.m. on collection day. As an alternative,
consumers may use a County-approved bear resistant roll cart in
place of the standard County-approved roll cart specified in the
program requirements.

408 (g) *Use of containers.* All consumers shall utilize a container or
410 containers as specified in the program requirements. Yard waste may also be
412 bundled in accordance with section 32-189 of this Code. All garbage and yard
414 waste conducive to containerization shall be stored in containers until disposed
416 of pursuant to this article. Any container used for collection or storage of garbage
418 or yard waste failing to meet the standards prescribed by the program
420 requirements shall be clearly marked by the franchisee, specifying the manner in
which the container fails to meet these requirements. Such containers shall be
removed from service by the furnishing party. Upon failure of the furnishing party
to remove the container from service, after written notice by the franchisee, the
franchisee shall notify the director who may have the container removed and
destroyed by the county or the franchisee.

422 (h) *Use of recycling containers.* All consumers shall utilize a container
424 or containers for designated recyclables as specified in the program
426 requirements. The county or franchisees shall provide recycling containers for
428 holding designated recyclable materials at curbside. The recycling containers are
the property of the county and shall remain at the property entitled to full solid
waste and recycling collection service. Consumers shall be responsible for
maintaining their respective recycling containers. It shall be unlawful to willfully
damage, vandalize, or steal any such recycling containers. Only designated
recyclables shall be placed in recycling containers.

430 (i) *Responsibility of residential franchisees.* Residential franchisees
432 shall perform all actions as may be required by the board of county
434 commissioners to ensure full solid waste and recycling collection services are
436 provided as agreed to by agreement and/or as described in this article. Where a
438 conflict arises between provisions implied or expressed in this article and any
agreement executed by the franchisee and the board, the implied or express
provisions of this article shall prevail and shall be deemed incorporated in such
agreement as if expressly included. Failure to meet the terms and conditions of
this article or an agreement between the franchisee and the county shall be a
basis for the county to suspend or terminate the franchise.

442 (j) *Special assessments; collection of special assessments; authority*
444 *to collect under MSBUs:*

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- 446 (1) *Special assessments imposed.* All persons owning property that
- 448 are entitled to full service shall be obligated to pay a charge for full
- 450 solid waste and recycling collection service. Such amounts shall be
- 452 set from time to time by resolution of the board of county
- 454 commissioners after public hearing with public notice in the same
- 456 manner as for county ordinances.
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- 460 (2) *Collection of special assessments; establishment of municipal*
- 462 *service benefit units.* Pursuant to F.S. § 125.01, the board is
- 464 authorized to establish, by resolution, municipal service benefit
- 466 units (MSBUs). Pursuant to Resolution 85-SW-06 the board of
- 468 county commissioners has created an MSBU to encompass all
- 470 franchise areas. The MSBU may be expanded, contracted, split-
- 472 out, merged or abolished by resolution. Within the MSBU the
- 474 board of county commissioners shall impose special
- assessments upon property entitled to full service. Pursuant to
- law, special assessments imposed in the MSBU shall be
- collected in the same manner as ad valorem taxes and shall be
- subject to the same discounts, liens, and certificates. However,
- these special assessments shall be imposed annually in
- advance, not in arrears.
- (3) *Development of rules and regulations.* As necessary, the director
- shall develop, and propose to the board for approval by
- resolution, all rules and regulations necessary for the orderly
- collection of special assessments imposed by the board of
- county commissioners under this section. All such rules and
- regulations shall be fully consistent with and cumulative to F.S.
- ch. 197 and all other applicable laws of the state.

476 **Section 4. Amendments to Section 32-178 ("Residential franchise,**

478 **commercial license and registration requirements").** Section 32-178 ("Residential

franchise, commercial license and registration requirements") is amended to read as

follows:

480 **Sec. 32-178. – Residential franchise, commercial license and**

registration requirements.

482 (a) *Processes for awarding franchise agreements and obtaining*

484 *licenses and registrations.*

- (1) *Procedure for procuring residential franchise agreements.*

486 The board awards franchises for full solid waste and
488 recycling collection services through a request for proposal
process.

- 490 (2) *Application for commercial license or registration.* Every new
492 applicant who desires to engage in the occupation of
collecting or transporting commercial solid waste and/or
494 collecting, transporting or processing recovered material in
the county shall apply for, on forms and documents required
496 by the director, or by responding to requests for proposals or
bids, and obtain a commercial license, or registration, in the
manner described herein prior to commencing operations in
498 such occupation. Applicants for a commercial license or
registration shall obtain an application approved by the
500 director and shall file a certified application with the solid
waste division. The board may solicit bids or advertise for
502 applications for commercial licenses including such terms
and conditions as necessary to determine award of such
504 service. License application shall be divided into the
following three (3) categories. A license may be issued for
506 one (1) or more of the categories.

- 508 a. *Multifamily.* Collection of solid waste from residential
510 dwellings and mobile home parks not under the
franchise system.
- 512 b. *Construction and demolition.* Collection of
514 construction and demolition debris only.
- 516 c. *Other commercial.* Collection of solid waste from
commercial generators not covered under subsection
518 (1) or (2) above.

520 Registrants shall be identified as processors, transporters, or both.

522 Applications for registration shall be limited to that information
required pursuant to state law.

- 524 (b) *Approval of application.*

- 526 (1) *Public hearing.* Upon receipt of an application for a
528 commercial license, the board shall determine the ability of
the applicant to comply with the provisions of this article and
may hold a public hearing on such application if the board or
530 director deems it necessary in the public interest which
hearing shall be held after publishing notice thereof in a

532 newspaper of general circulation within the county at least
534 fifteen (15) days prior to the hearing.

536 (2) *Findings; issuance.* In determining whether or not to award a
538 commercial license, the board shall consider the truth and
540 completeness of the statements in the application and
whether the applicant is capable of complying with the
provisions of this article and other applicable rules and
regulations.

542 a. *Vehicles.* Commercial license applicants shall
544 demonstrate, to the satisfaction of the director, that
any vehicles and necessary equipment to be utilized
546 meet industry standards and have the capability of
providing and maintaining an appropriate level of
548 service.

550 b. *Processing.* Registration applicants shall effectively
552 demonstrate to the satisfaction of the director that
they have sufficient equipment, capacity and staff to
554 process the materials they may reasonably be
expected to receive for separation into recovered
556 materials within six (6) months of its receipt without
causing public health, safety or nuisance problems.

558 c. *Appeal.* A registration applicant may appeal any of the
560 director's determinations to the board in accordance
with the procedures set forth in this chapter.

562 (3) *Denial; notification of denial.* The board of county
564 commissioners may deny any application for a license if,
after due investigation and public hearing as provided
566 herein, the board of county commissioners finds and
determines as a matter of fact any one (1) of the following:
568 (1) that statements made in the application are false; (2) that
the applicant is unable to provide the service requested; or
570 (3) that the applicant does not comply with the provisions of
this chapter or other applicable regulations. Reasons for
572 such denial shall be stated in writing and mailed to the
applicant.

574 (c) *Issuance of commercial license or registration.* After submittal and
approval of a license application by the board, the board shall so advise the
576 applicant and shall issue a commercial license to the applicant upon payment of
the commercial license fees as provided in this article or in the rules and
regulations implementing this article. After submittal and approval of a

578 registration application by the director, the director shall so advise the applicant
580 and shall issue a registration to the applicant upon payment of the registration
fees as provided in this article or in the rules and regulations implementing this
582 article.

(d) *Separate accounting required for franchise services and
584 commercial collection services.* No residential franchisee or affiliated entity shall
hold or obtain a commercial license, nor shall a commercial licensee or affiliated
586 entity hold or obtain a residential franchise, except where such franchisee or
commercial licensee maintains separate accounting and financial records in
588 order to prevent the subsidy of one (1) operation by the other. The subsidy of
commercial services by residential service and the subsidy of residential service
590 by commercial service is hereby expressly prohibited.

(e) *Franchisee or licensee firm names.* Franchisees and licensees
592 shall not use a firm name containing the words "Orange County" or other words
594 implying county ownership.

(f) *Duration of licenses and registrations.* Commercial licensees and
596 registrations are valid for a five-year period commencing on the date of the
issuance of their license or registration unless revoked sooner by the board for
598 due cause. Such licensees and registrants shall be subject to an annual fee or
any other fee(s) as established by the board of county commissioners, such fee
600 to be payable prior to January 1.

(g) *Commercial rates.* Except as otherwise expressly provided for in
602 this article, rates charged by commercial licensees for commercial services shall
604 not be regulated by the board of county commissioners. Billing for such services
606 shall be performed by the owner/operator of the licensed enterprise.

(h) *Collection of prohibited materials.* Franchisees shall not accept for
608 collection any prohibited residential waste or any yard waste mixed with garbage
or bulk trash. Franchisees and licensees shall not accept any materials
610 prohibited from collection by federal, state or local law.

(i) *Specific commercial license requirements.* A commercial licensee
612 (may contract to provide commercial service with any commercial generator in
614 Orange County pursuant to the specific requirements of the commercial license
and the following requirements:

(1) *Records.* All licensees shall keep and maintain such operating
616 records as the board of county commissioners may require to
ascertain the extent of compliance with this article.
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622 During the term of the commercial license or its renewal, the
commercial licensee shall make its Orange County license and, in
the county's discretion, all other related books and records,

624 including but not limited to dump tickets, customer invoices and
626 customer transaction files, available to the county for inspection at
628 all reasonable times. Failure to furnish or to maintain complete and
630 accurate books and records, or to make such books and records
632 available to the county, shall be considered a violation of this article
634 and shall provide a basis for the county to terminate the commercial
license and to collect any damages resulting therefrom. Commercial licensees must keep all licenses and other related
books and records on file for not less than three (3) years from the
termination of the license by either party.

636 In addition, the licensee shall keep financial records to
638 properly reflect its financial operations and financial condition in
accordance with generally accepted accounting principles.

640 The licensee shall prepare an annual financial report on a
642 date acceptable to the director and licensee. Such report shall
644 consist of a balance sheet, income statement, statement of retained
646 earnings, and a statement of cash flow on the entity as a whole, as
well as supplemental financial information on commercial solid
waste service, including operation and maintenance costs separate
of any other service provided in the county.

648 (2) *Billing.* The commercial licensee shall have the sole responsibility
650 for the billing and collection of all charges described herein. In the
652 event bills are not paid in a timely manner, the commercial licensee
654 shall have the right (provided that the commercial licensee may
otherwise legally do so) to discontinue services for nonpayment,
and shall notify the director within fifteen (15) days after
discontinuance of such services.

656 (3) *Nonperformance.* In the event that a commercial licensee fails to
658 provide adequate collection to a commercial customer by reason of
any: (1) emergency, catastrophe, natural disaster, war, labor strike,
act of God, or similar event; or (2) otherwise fails to adequately
660 perform the duties and obligations created by this article (as
determined solely by the county), the county may, at its sole
662 discretion, (1) terminate the license; and/or (2) take over the
collection service using its own equipment and service or that of
664 another commercial licensee.

666 In the event any of the privileges granted herein are terminated
668 pursuant to this article, any liability of the commercial licensee to
the county accruing thereby, and any liability of the licensee to the
county arising out of any act or event occurring prior to the
termination shall immediately become due and payable to the

670 county, without further notice.

672 (4) *Insurance.* Each commercial licensee shall purchase and maintain
674 insurance in the amounts and pursuant to the terms and conditions
set forth below:

676 a. Commercial general liability insurance with limits of not less
than one million dollars (\$1,000,000.00) per occurrence;

678 b. Business automobile liability insurance with limits of not less
680 than one million dollars (\$1,000,000.00) per accident;

682 c. Worker's compensation as required by F.S. ch. 440;

684 d. Pollution legal liability including coverage for bodily injury
and property damage as well as cleanup and defense costs
686 with limits of not less than one million dollars
(\$1,000,000.00) per loss.

688 The county shall be named as an additional insured on all liability
690 policies. The licensee shall annually provide the county with proof
of insurance coverage by a company authorized to do business
692 within the State of Florida as required in this section. No material
change or cancellation/non-renewal shall be effective without thirty
694 (30) days' written notice to the county. Failure to maintain insurance
shall result in revocation of the commercial license. Each licensee
696 shall annually furnish proof to the county that all liability and
worker's compensation insurance laws of the state have been
698 complied with.

700 (5) *Other laws and regulations.* The commercial licensee shall, at its
sole expense, procure all required local, state, and federal licenses,
702 certificates, permits, and other authorizations necessary to conduct
the licensee's operations. Each commercial licensee and its
704 employees shall observe and comply with all applicable federal,
state, and local laws, rules, regulations, requirements, ordinances,
706 orders, and mandatory guidelines, pertaining to the collection
services rendered hereto. Issuance of a commercial license by the
708 county shall not be deemed to be a waiver of any applicable state,
local or federal laws or regulations; including, but not limited to,
710 zoning or planning regulations.

712 (6) *Service explanation.* Each commercial licensee shall provide a
copy of its license and application, upon request, to each one (1) of
714 the commercial licensee's customers. These materials shall be
provided to potential customers before the commercial licensee

enters into a contract for services with the potential customer.

(7) *Changes.* A commercial licensee shall have a continuing obligation to apprise the county of any material changes to its service or financial position which deviate from the information contained in the commercial licensee's application.

(8) *Yard waste.* Yard waste from a commercial generator or customer shall be collected separately from other solid waste. Each commercial licensee shall inform all of its customers of this requirement.

(9) *Load inspection.* The commercial licensee shall submit to the county load inspection program.

(10) *Cancellation.* In addition to the requirements of section 32-186(a), the county has the right to cancel or revoke a license due to noncompliance with this article and failure to comply within thirty (30) days after receiving written notice. Provided, however, that if the director determines that an imminent health or environmental problem exists as a result of the noncompliance, such notice shall only be ten (10) days.

(11) *Disclosure of owners.* Annually, each commercial licensee shall provide the director with a notarized statement disclosing:

a. The names of its principal corporate officers, partners and shareholders owning ten (10) percent or more of the outstanding stock; and

b. The exact corporate or fictitious name under which the commercial licensee will conduct its business as authorized by this article. The county shall be advised by the commercial licensee in writing of any proposed name change before it goes into effect.

(12) *Handling complaints.* Each commercial licensee shall maintain an office in Orange County or an adjoining county with adequate staff and telephone service to handle and resolve all incoming calls and complaints between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday of each week, excluding holidays. Between the hours of 5:00 p.m. and 8:00 a.m., Monday through Friday, and all day Saturday and Sunday, including holidays, the commercial licensee shall maintain an answering machine to receive incoming calls and complaints. The answering machine shall be checked at least once a day for complaints.

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- (13) *Response to complaints.* Any complaints received by the commercial licensee before 12:00 noon shall be responded to and, if feasible, resolved before 5:00 p.m. of that same day. Complaints received after 12:00 noon shall be responded to and, if feasible, resolved before 12:00 noon of the following day (excluding Sunday). An emergency telephone number or number(s) where the commercial licensee may be reached shall be given to the director.
- (14) *Trucks.* A commercial licensee shall use modern packer type sanitation trucks for the collection and transportation of solid waste, except construction and demolition and class III waste. Determination of whether such vehicles are appropriate, including those vehicles that collect construction and demolition and class III wastes, shall be as set forth in this section.
- (15) *Clean-up.* A commercial licensee shall handle commercial service containers with reasonable care and return them to the approximate location from which they were collected. A commercial licensee shall clean up all wastes that it spills during its collection operations.
- (16) *Emergency.* A commercial licensee shall not be required to provide collection services when all appropriate disposal and/or recycling sites are closed or when county-wide natural or civil emergency conditions exist or are imminent, as determined by the director. During and after such emergencies, collections and deliveries of solid waste shall be at the discretion of the director.
- (17) *Times for collection.* Unless otherwise approved by the director, commercial collections shall be made only Monday through Saturday between 6:00 a.m. and 8:00 p.m. A minimum of once a week service shall be provided for all customers; however, where garbage, as defined herein, is generated, a minimum of twice per week collection is required unless otherwise approved by the director. Such service shall be provided by commercial service container as defined herein. However, where a customer generates one (1) cubic yard or less per week of solid waste, an alternate noncommercial container may be utilized. Subject to the minimums set forth above, the size of the container and the frequency of collection should be determined between the customer and the commercial licensee, but disputes concerning these issues shall be resolved by the director. However, no solid waste shall be placed outside the container. Storage capacity shall be suitable for the amount of waste generated by the customer.

- 808 (18) *Acquisition of containers.* A commercial licensee may provide
810 containers to its customers; however, customers also may acquire
812 their containers from any other source, provided that such source
814 or customer is completely responsible for the proper maintenance
of the container. Containers shall be of a type that can be serviced
by the commercial licensee's equipment.
- 816 (19) *Placement and maintenance of containers.*
- 818 a. Minimum Countywide Standards. All commercial solid
820 waste shall be placed in a container, garbage can, other receptacle
822 or plastic disposal bag. Where garbage cans are used, they shall
824 be placed at the roadside or at such other collection point(s) as
may be agreed upon between the licensee and the customer. All
containers shall be kept in a safe, accessible location, as agreed
upon between the commercial licensee and the customer, subject
to any limitations or restrictions imposed by the county. Any
container damaged by the commercial licensee shall be repaired or
replaced by the commercial licensee, ordinary wear and tear of
customer-owned containers excepted.
- 828 b. Additional Restrictions within Bear Management
830 Areas. Commercial garbage collection customers located within
832 designated Bear Management Areas are required to place refuse
834 within a bear resistant commercial refuse container approved by
836 the commercial licensee. Bear resistant commercial refuse
838 containers must remain secured at all times except when loading or
840 unloading the container and the area around the container must be
842 kept clean of refuse and debris. If damaged in a manner that would
844 permit bear access, the damage must be reported to the company
846 responsible for the maintenance of the container and repaired
848 within forty eight (48) hours after the damage is discovered.
850 Customers will be responsible for any cost associated with
852 compliance with this requirement.
- (20) *Nonagency.* A licensee shall not be deemed to be the agent of the
county. A commercial licensee shall be solely responsible for any
losses or damages of any kind arising from its performance or
nonperformance under its license. The commercial licensee shall
defend at its own expense or provide for such defense, at the
county's option, any and all claims and suits brought against the
county which may result from the commercial licensee's
performance or nonperformance of service pursuant to its license.
- (j) *Operating requirements for registrants.* In addition to the
registration requirements set forth herein, persons collecting, transporting,

conveying, or processing recovered materials in Orange County shall comply with the following operating requirements:

- (1) *Disclosure of owners.* Annually, each registrant shall provide the director with two (2) notarized statements disclosing the names of its general and limited partners, or corporate officers and directors, and the exact corporate or fictitious name under which it will conduct its business as authorized by this article.
- (2) *Handling complaints.* Each registrant shall be responsible for promptly responding to any and all complaints which involve actions that create a nuisance or have the potential to create a nuisance.
- (3) *Response to complaints.* Any such complaint shall be responded to within twenty-four (24) hours or by Monday if the complaint occurs on the weekend.
- (4) *Containers.* A registrant shall handle recovered materials containers with reasonable care and return them to the approximate location from which they were collected. A registrant shall clean up all materials that are spilled during its collection operations.
- (5) *Emergency.* A registrant shall not be required to provide collection services when all appropriate disposal and/or recycling sites are closed or when county-wide natural or civil emergency conditions exist or are imminent, as determined by the director. During and after such emergencies, collections and deliveries of solid waste shall be at the direction of the director.
- (6) *Acquisition of containers.* A registrant may provide recovered material containers to its customers. Customers that acquire their own containers from any other source are responsible for the proper maintenance of the container. Containers shall be of a type that can be serviced by the registrant's equipment.
- (7) *Location and maintenance of containers.* All recovered materials shall be placed in an appropriate industry standard container. Where garbage cans are used, they shall be placed at the roadside or at such other single collection point(s) as may be agreed upon between the registrant and the customer. All containers shall be kept in a safe, accessible location as designated or approved by the county and as agreed upon between the registrant and the customer. Any container damaged by the registrant shall be repaired or replaced by the registrant, ordinary wear and tear of

customer-owned containers excepted.

(8) *Nonagency.* A registrant shall not be deemed to be the agent of the county. A registrant shall be solely responsible for any losses or damages of any kind arising from its performance or nonperformance under its registration. The registrant shall defend at its own expense or provide for such defense, at the county's option, any and all claims and suits brought against the county which may result from the registrant's performance or nonperformance of service pursuant to its registration.

(9) *Trucks.* Registrants shall use trucks which are capable of preventing spillage or accidental release of recovered material during transport as required in this section.

(10) *Insurance.* The registrant further agrees to purchase and maintain insurance in amounts and pursuant to terms and conditions set forth below:

- a. Commercial general liability insurance with limits of not less than one million dollars (\$1,000,000.00) per occurrence if the registrant utilizes county facilities;
- b. Business automobile liability insurance with limits of not less than one million dollars (\$1,000,000.00) per accident;
- c. Worker's compensation as required by F.S. ch. 440;
- d. Pollution legal liability including coverage for bodily injury and property damage as well as cleanup and defense costs with limits of not less than one million dollars (\$1,000,000.00) per loss.

The county shall be named as an additional insured on all liability policies if the registrant utilizes county facilities. The registrant shall annually provide the county with proof of insurance coverage by an insurance company authorized to do business in the State of Florida as required in this section. No material change or cancellation/nonrenewal shall be effective without thirty (30) days' prior written notice to the county. Failure to maintain insurance shall result in revocation of registration. Each licensee shall annually furnish proof to the county that all liability and worker's compensation insurance laws of the state have been complied with.

(11) *Other laws and regulations.* The registrant shall, at its sole expense, procure from all local, state and federal governmental and

946 agency authorities (having jurisdiction over the operations of the
948 commercial registrant) all licenses, certificates, permits, or other
authorizations necessary to conduct the registrant's operations. The
950 registrant and its employees shall also observe and comply with all
present and future federal, state, and local laws, rules and
952 regulations, requirements, ordinances, orders, and mandatory
guidelines, pertaining to the collection or processing services
954 rendered hereto. Issuance of a registration by the county shall not
be deemed as a waiver of any applicable state, local or federal laws
956 or regulations (including, but not limited to, zoning or planning
regulations) with respect to a recycling operation of any kind nor
958 shall it create any vested rights to own or operate any type of
recycling operation.

960 **Section 5.** This ordinance shall take effect on this ___ day of _____, ____.

962 ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

964 By:

966 _____
Teresa Jacobs
968 Orange County Mayor

970 ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

972
974 By: _____
976 Deputy Clerk