

BCC Mtg. Date: November 1, 2016

EFFECTIVE DATE November 10, 2016

ORDINANCE NO. 2016-24

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

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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

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

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

Bear management area shall mean an area within Orange County in which there is a high incidence bear/human interactions recorded by the 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.

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

Biohazardous waste shall mean those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; including, but not limited to, waste resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist 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.

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

Bulk trash shall mean any nonvegetative item which cannot be containerized, bagged, or bundled; including, but not limited to, automobile 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 any Freon-containing devices.

Commercial customer shall mean a person who receives commercial services as provided in this article.

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 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;

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

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

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

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

Division shall mean the Orange County Solid Waste Division.

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

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

Franchise areas shall mean geographical areas in the county which are identified and defined for purposes of facilitating the orderly collection and transportation of residential waste materials and designated 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

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

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

Household items shall mean material such as packaging, small appliances, bicycles, records, pet wastes, common household materials, materials from minor home repairs, minor remodeling projects and from 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.

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

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

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

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

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

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

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

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.

(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.

(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.

(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.

(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

within twelve (12) hours of collection.

- (2) Additional Restrictions within Bear Management Areas. County-issued roll carts containing household garbage must be maintained in a secured area and placed at the curb for collection between 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.

(g) *Use of containers.* All consumers shall utilize a container or containers as specified in the program requirements. Yard waste may also be bundled in accordance with section 32-189 of this Code. All garbage and yard waste conducive to containerization shall be stored in containers until disposed of pursuant to this article. Any container used for collection or storage of garbage or yard waste failing to meet the standards prescribed by the program 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.

(h) *Use of recycling containers.* All consumers shall utilize a container or containers for designated recyclables as specified in the program requirements. The county or franchisees shall provide recycling containers for 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.

(i) *Responsibility of residential franchisees.* Residential franchisees shall perform all actions as may be required by the board of county commissioners to ensure full solid waste and recycling collection services are provided as agreed to by agreement and/or as described in this article. Where a 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.

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

- (1) *Special assessments imposed.* All persons owning property that are entitled to full service shall be obligated to pay a charge for full solid waste and recycling collection service. Such amounts shall be set from time to time by resolution of the board of county commissioners after public hearing with public notice in the same manner as for county ordinances.
- (2) *Collection of special assessments; establishment of municipal service benefit units.* Pursuant to F.S. § 125.01, the board is authorized to establish, by resolution, municipal service benefit units (MSBUs). Pursuant to Resolution 85-SW-06 the board of county commissioners has created an MSBU to encompass all franchise areas. The MSBU may be expanded, contracted, split-out, merged or abolished by resolution. Within the MSBU the 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.

Section 4. Amendments to Section 32-178 (“Residential franchise, commercial license and registration requirements”). Section 32-178 (“Residential franchise, commercial license and registration requirements”) is amended to read as follows:

Sec. 32-178. – Residential franchise, commercial license and registration requirements.

(a) *Processes for awarding franchise agreements and obtaining licenses and registrations.*

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

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

- (2) *Application for commercial license or registration.* Every new applicant who desires to engage in the occupation of collecting or transporting commercial solid waste and/or collecting, transporting or processing recovered material in the county shall apply for, on forms and documents required 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 such occupation. Applicants for a commercial license or registration shall obtain an application approved by the director and shall file a certified application with the solid waste division. The board may solicit bids or advertise for applications for commercial licenses including such terms and conditions as necessary to determine award of such service. License application shall be divided into the following three (3) categories. A license may be issued for one (1) or more of the categories.
 - a. *Multifamily.* Collection of solid waste from residential dwellings and mobile home parks not under the franchise system.
 - b. *Construction and demolition.* Collection of construction and demolition debris only.
 - c. *Other commercial.* Collection of solid waste from commercial generators not covered under subsection (1) or (2) above.

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

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

- (b) *Approval of application.*
 - (1) *Public hearing.* Upon receipt of an application for a 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 director deems it necessary in the public interest which hearing shall be held after publishing notice thereof in a

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

(2) *Findings; issuance.* In determining whether or not to award a commercial license, the board shall consider the truth and 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.

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

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

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

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

(c) *Issuance of commercial license or registration.* After submittal and approval of a license application by the board, the board shall so advise the 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

registration application by the director, the director shall so advise the applicant 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 article.

(d) *Separate accounting required for franchise services and commercial collection services.* No residential franchisee or affiliated entity shall hold or obtain a commercial license, nor shall a commercial licensee or affiliated entity hold or obtain a residential franchise, except where such franchisee or commercial licensee maintains separate accounting and financial records in 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 by commercial service is hereby expressly prohibited.

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

(f) *Duration of licenses and registrations.* Commercial licensees and 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 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 to be payable prior to January 1.

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

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

(i) *Specific commercial license requirements.* A commercial licensee (may contract to provide commercial service with any commercial generator in 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 records as the board of county commissioners may require to ascertain the extent of compliance with this article.

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,

including but not limited to dump tickets, customer invoices and customer transaction files, available to the county for inspection at all reasonable times. Failure to furnish or to maintain complete and accurate books and records, or to make such books and records available to the county, shall be considered a violation of this article 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.

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

The licensee shall prepare an annual financial report on a date acceptable to the director and licensee. Such report shall consist of a balance sheet, income statement, statement of retained 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.

- (2) *Billing.* The commercial licensee shall have the sole responsibility for the billing and collection of all charges described herein. In the event bills are not paid in a timely manner, the commercial licensee 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.
- (3) *Nonperformance.* In the event that a commercial licensee fails to 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 perform the duties and obligations created by this article (as determined solely by the county), the county may, at its sole discretion, (1) terminate the license; and/or (2) take over the collection service using its own equipment and service or that of another commercial licensee.

In the event any of the privileges granted herein are terminated 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

county, without further notice.

- (4) *Insurance.* Each commercial licensee shall purchase and maintain insurance in the amounts and pursuant to the 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;
 - 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. The licensee shall annually provide the county with proof of insurance coverage by a company authorized to do business within the State of Florida as required in this section. No material change or cancellation/non-renewal shall be effective without thirty (30) days' written notice to the county. Failure to maintain insurance shall result in revocation of the commercial license. 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.

- (5) *Other laws and regulations.* The commercial licensee shall, at its sole expense, procure all required local, state, and federal licenses, certificates, permits, and other authorizations necessary to conduct the licensee's operations. Each commercial licensee and its employees shall observe and comply with all applicable federal, state, and local laws, rules, regulations, requirements, ordinances, orders, and mandatory guidelines, pertaining to the collection services rendered hereto. Issuance of a commercial license by the county shall not be deemed to be a waiver of any applicable state, local or federal laws or regulations; including, but not limited to, zoning or planning regulations.
- (6) *Service explanation.* Each commercial licensee shall provide a copy of its license and application, upon request, to each one (1) of 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.

- (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.

(18) *Acquisition of containers.* A commercial licensee may provide containers to its customers; however, customers also may acquire their containers from any other source, provided that such source 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.

(19) *Placement and maintenance of containers.*

a. Minimum Countywide Standards. All commercial solid waste shall be placed in a container, garbage can, other receptacle or plastic disposal bag. Where garbage cans are used, they shall 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.

b. Additional Restrictions within Bear Management Areas. Commercial garbage collection customers located within designated Bear Management Areas are required to place refuse within a bear resistant commercial refuse container approved by the commercial licensee. Bear resistant commercial refuse containers must remain secured at all times except when loading or unloading the container and the area around the container must be kept clean of refuse and debris. If damaged in a manner that would permit bear access, the damage must be reported to the company responsible for the maintenance of the container and repaired within forty eight (48) hours after the damage is discovered. Customers will be responsible for any cost associated with 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

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

Section 5. This ordinance shall take effect on this ___ day of NOV 01, 2016.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By:

Teresa Jacobs
Teresa Jacobs
Orange County Mayor

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

By:

Martha O. Haynie
Deputy Clerk