

Chapter 21 WATER SUPPLY AND WASTE DISPOSAL*

***Cross references:** Noxious aquatic plants, § 5-1; buildings and construction, Ch. 6; labeling and sale of detergents containing phosphorus, § 14-1; local laws relating to environmental control, App. A, Ch. 6.

State law references: Authority to provide and regulate waste and sewage collection and disposal, water supply and conservation programs, F.S. § 125.01(1)(k).

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ARTICLE III. WASTE DISPOSAL*

***State law references:** Authority to control collection and disposal of solid waste, F.S. § 403.713.

DIVISION 1. GENERALLY**Sec. 21-51. Definitions.**

The following words, terms and phrases, when used in all articles of Chapter 21 and all divisions of this article, shall have the meanings ascribed to them in this section, Chapter 62-701, Florida Administrative Code, as amended from time to time, and Chapter 403, Florida Statutes, as amended from time to time, except where the context clearly indicates a different meaning:

Annual rate resolution means the resolution described in section 21-147(i), establishing the rate at which the waste materials management system assessments or fees or charges, or all three, for a specific fiscal year shall be computed.

Applicant means a person who submits a completed application for an Exclusive Franchise, franchise or permit to transport or collect solid waste or recovered materials for hire in the county.

Assessed unit means those parcels of real property to be assessed that are identified annually by the board in the initial assessment resolution, final assessment resolution or annual rate resolution.

Assessment roll means a non-ad valorem assessment roll relating to solid waste management system costs and recovered materials management system costs, approved by a final assessment resolution pursuant to section 21-147(g) or an annual rate resolution pursuant to section 21-147(i).

Biological waste means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biomedical waste, as defined in 64E-16.002, Florida Administrative Code, as amended from time to time, biohazardous waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. The term does not include human remains that are disposed of by persons licensed under Chapter 470, Florida Statutes.

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

Building means any structure, whether temporary or permanent, built for the support, shelter or enclosure of persons, chattel, or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

Bulk items means those items that may require special handling and management including, but not limited to: white goods; any materials resulting from home improvements; and any and all household goods and furniture. Bulk items must be usual to housekeeping and must be generated by the customer at the dwelling unit, wherein the bulk item is collected. Bulk items do not include items herein defined as exempt waste.

Bundle(d) means a package containing yard trash or rubbish only, weighing not over fifty (50) pounds, or as permitted by law and not exceeding four (4) feet in its longest dimension or six (6) inches in diameter; tied with cord or rope, or otherwise secured, in a manner to permit lifting and carrying of the full weight thereof without spillage or leakage.

Business(es) means all retail, professional, wholesale, institutional and industrial facilities and any other commercial enterprises, including hotels or motels offering goods or services to the public, licensed recreational vehicle parks offering goods or services to the public, and mobile home parks in which all of the lots or spaces are offered for rent or lease for the placement of mobile homes.

Can residential solid waste collection service means the collection of residential solid waste from dwelling units whose garbage is collected by means of a garbage can.

Clean debris means any solid waste which is virtually inert and which is not a pollution threat to groundwater or surface waters and is not a fire hazard and which is likely to retain its physical and chemical structure under expected conditions of disposal and use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, and ceramics.

Commercial property means all businesses, including hotels or motels, licensed recreational vehicle parks, and mobile home parks in which all of the lots or spaces are offered for rent or lease for the placement of mobile homes.

Commercial solid waste means any garbage, rubbish or yard trash that is usual to the normal operations of stores, offices, businesses or commercial properties. Commercial solid waste must be generated by the customer at the commercial property wherein the commercial solid waste is collected and does not include items defined herein as bulk items, contractor-generated waste or exempt waste.

Commercial solid waste collection service means the collection of commercial solid waste from commercial properties. Such service shall include containers, compactors or garbage cans and shall include roll-off containers when such containers are used for the collection of commercial solid waste, but shall not include roll-off containers used for roll-off collection services.

Compactor means any container which has a compaction mechanism, whether stationary or mobile.

Construction and demolition debris means discarded materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project, or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project, including such debris from construction at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as other than construction and demolition debris.

Contractor-generated waste means rubbish, yard trash or bulk items, or any combination thereof, generated by builders, building contractors, privately-employed handyman services, privately-employed tree trimmers and tree surgeons, landscape services and lawn or yard maintenance services and nurseries.

Container means any container, with a capacity of one (1) cubic yard up to and including ten (10) cubic yards, designed or intended to be mechanically dumped into a loader-packer type garbage truck.

Containerized residential solid waste collection service means the collection of residential solid waste from dwelling units whose garbage is collected by means of a central or shared container and not by means of a garbage can.

County means Lake County, a political subdivision of the state established, as described in Chapter 7, Florida Statutes.

County manager means the chief executive officer of the county.

Curbside residential recycling collection service means the collection and truckside sorting of recyclable materials, by the collector, from dwelling units that receive can residential solid waste collection service; and the delivery of those recyclable materials to a designated county recovered materials management facility.

Customer means an owner(s) or occupier(s) of improved property who receives solid waste management services, recovered materials management services and/or recyclable management services from a franchisee or permittee. This term includes all individuals subject to the waste material assessment and improved commercial property owner(s) and/or occupiers.

Designee means a person appointed by the county manager to act on his or her behalf.

Director means the director of county solid waste management system and the recovered materials management system or his or her representative.

Disposal area means any site, location, landfill, tract of land, area, building structure, transfer box, transfer station, or premises to be used for solid waste disposal or accumulation.

District means special district, municipal service taxing unit, municipal service benefit unit or any geographical area in unincorporated Lake County identified by the board of county commissioners for the provisions of solid waste management system or recovered materials management system services.

Dwelling unit means any type of structure or building unit intended for, or capable of being utilized for, residential living, other than those structures or building units included within the definition of commercial property herein.

Exclusive Franchise means the right to provide such solid waste or recovered materials collection and transportation services in such exclusive district as may be set forth in an exclusive contract negotiated with, and awarded by the county.

Exempt waste means biohazardous, biomedical or biological waste, contractor-generated waste, tires, construction and demolition debris, land clearing debris, hazardous waste, sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, mercury containing lamps and devices, used oil, yard trash which is four (4) feet or more in its longest dimension or six (6) inches or more in diameter or weighs fifty (50) pounds or more, or any residential or commercial solid waste for which there is no legally permitted disposal or storage facility within Lake County, or any combination thereof.

Final assessment resolution means the resolution described in section 21-147(g) which shall confirm or deny the initial assessment resolution and which shall be the final proceeding for the imposition of a waste materials assessment.

Fiscal year means that period beginning October 1 of each year and ending on the 30th day of September of the subsequent year.

Franchise means a nonexclusive right to provide solid waste or residential recovered materials collection and transportation services granted by the county.

Franchisee means a holder of an Exclusive Franchise and/or a Franchisee.

Garbage means all putrescible waste which generally includes, but is not limited to, kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with, or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities.

Garbage can means any commonly available light gauge steel, plastic or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s) including waterproof plastic bags of heavy mill construction which can be safely and securely closed. A garbage can including its contents shall not exceed thirty-two (32) gallons in

capacity nor fifty (50) pounds in weight or as permitted by law.

Hazardous material means any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This terms includes hazardous waste.

Hazardous waste has the meaning as defined in Title 40, Code of Federal Regulations, section 260.10, as amended from time to time, and section 403.703, Florida Statutes, as amended for time to time.

Hotel or motel means a structure(s) or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven (7) days or less. To meet this definition, the hotel or motel must be licensed to operate as such. "Transient" has the meaning as defined in Chapter 509, Florida Statutes (Supp. 1992), or its successor law.

Improved property means improved residential and commercial property located in the unincorporated area of Lake County.

Improved commercial property means all improved property other than that which is classified as improved residential property.

Improved residential property means improved property with one (1) or more dwellings units.

Initial assessment resolution means the resolution described in section 21-147(c) which shall be the initial proceeding for the imposition of a waste materials assessment.

Non-ad valorem assessment means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in Article X, Section 4, State of Florida Constitution.

Obligations means bonds, notes, commercial paper, capital leases or any other obligations of the county issued or incurred to finance any portion of the solid waste management system cost or the recovered materials management system cost.

Permit means authorization to collect and transport solid waste and recovered materials in Lake County granted by the county.

Person means an individual, partnership, corporation, joint venture, private or public service company or entity, however organized.

Premises means any structure or parcel of land where solid waste or recovered materials are created or accumulated.

Property appraiser means the property appraiser of the county.

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

Recovered materials dealer means a person who handles, purchases, receives, recovers, sells, or is an end user of recovered materials and is certified pursuant to F.S. § 403.7046, Regulation of Recovered Materials.

Recovered materials processing facility means a facility engaged solely in the storage, processing, resale, or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of Rule 62-701.220(2)(c), Florida Administrative Code.

Recovered materials management means the process whereby recovered materials are

collected, transported, stored, separated, processed, sold, reused or disposed of in any way according to an orderly, purposeful and planned program.

Recovered materials management system costs mean any costs, including capital outlay, for the management and processing of recovered materials, including the costs for:

- (1) Transfer station, drop-off center or processing facility costs;
- (2) Administrative, implementation or financing costs, including debt service, associated with the county's recovered materials management program.

Recyclable materials means those recovered materials, as defined in F.S. § 403.703(7), which are capable of being recycled and which would otherwise be processed or disposed of as solid waste. Recyclable materials include those materials currently being collected; newspapers, clear glass containers and aluminum beverage containers and such other materials as may be defined by the county from time-to-time.

Recycling means any process by which solid waste, or materials, which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Recycling container means a rigid container made of plastic or other suitable substance distributed by the county or collector for the storage and accumulation of commingled recyclable materials.

Residential solid waste means any garbage, rubbish, yard trash or bulk item that is usual to housekeeping. Residential solid waste must be generated by the customer at the dwelling unit wherein the residential solid waste is collected and does not include items defined herein as contractor-generated waste or exempt waste.

Residential solid waste collection service means can residential solid waste collection service and containerized residential solid waste collection service.

Rubbish means all refuse, accumulation of paper, excelsior, rags, wooden or paper boxes and containers, sweep-ups and all other accumulations of nature other than garbage, which are usual to housekeeping or to the operation of stores, offices, businesses and other commercial property; also any bottles, cans or other containers not containing garbage. Rubbish does not include items herein defined as exempt waste.

Sludge includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

Sludge haulers means a permitted transporter of any solid or semisolid or liquid generated from any septic tank, grease trap, portable toilets and related operations or any other such waste having similar characteristics.

Solid waste means sludge unregulated under the Federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials as defined in F.S. § 403.703(7) are not solid waste.

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

Solid waste management means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way according to an orderly, purposeful and planned program which includes closure and long-term maintenance.

Solid waste management facility means any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing or storage of solid waste. The term does not include recovered materials processing facilities which meet the requirements of F.S. § 403.7046(4), except the portion of such facilities, if any, that is used for the management of solid waste.

Solid waste management system costs mean any costs, including capital outlay, for the disposal or management of solid waste, and including but not limited to, the costs for:

- (1) The resource recovery program, which includes the net service fee due the operator of the county's resource recovery facility and the county's direct resource recovery/ash monofill program costs;
- (2) The landfill management program, including closure and long term maintenance costs;
- (3) Costs of transfer stations, drop off sites and other similar facilities designated by the county;
- (4) The hazardous waste program;
- (5) The recycling and education program;
- (6) The solid waste and recycling collection costs; and
- (7) Administrative, implementation or financing costs, including debt service, associated with the county's solid waste management and disposal program.

Source separated means the recovered materials are separated from solid waste where the recovered materials and solid waste are generated. The term does not require that various types of recovered materials be separated from each other and recognizes de minimis solid waste, in accordance with industry standards and practices, may be included in the recovered materials.

Special waste means solid wastes that can require special handling and management, including, but not limited to, white goods, waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, yard trash, and biological wastes.

Tax collector means the tax collector of the county.

Tax roll means the real property ad valorem tax assessment roll maintained by the property appraiser of the county for the purpose of the levy and collection of ad valorem taxes.

Truck means any trailer, semitrailer, conveyance or vehicle used to collect or transport solid waste or recovered materials.

Uniform assessment collection act means F.S. §§ 197.3632 and 197.3635, or any successor statutes, authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes.

Waste materials means solid waste and recovered materials.

Waste materials assessment means a non-ad valorem assessment lawfully imposed by the county against improved property to pay all or a portion of the solid waste management system costs and the recovered materials management system costs.

White goods means discarded refrigerators, ranges, water heaters, freezers and other similar domestic and commercial large appliances.

Yard trash means vegetative matter resulting from routine and periodic yard and landscaping maintenance, and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, and trees and tree stumps, which are less than four (4) feet in length in its longest dimension, or less than six (6) inches in diameter, or weighs less than fifty (50) pounds or any combination thereof. Yard

trash does not include items herein defined as exempt waste.

(Ord. No. 1972-2, § 2, 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1990-14, § 1, 7-17-90; Ord. No. 1993-11, § 2, 8-24-93; Ord. No. 2001-77, § 2, 5-15-01; Ord. No. 2001-113, § 1, 8-7-01)

Sec. 21-52. Scope.

This article shall apply and be enforced in all areas of the county not within the boundaries of any municipality in the county, except where such municipality has entered into an interlocal agreement that allows for such enforcement.

(Ord. No. 1972-2, § 1, 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 3, 8-24-93)

Sec. 21-53. Violations.

(a) It is unlawful to violate the provisions of this chapter. Any person who violates any section of any article of this chapter may be prosecuted as provided in F.S. § 125.69.

(b) County may revoke any exclusive franchise, franchise or permit granted pursuant to this chapter as a result of any violation of any of the provisions contained herein.

(Ord. No. 1972-2, § 12, 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 4, 8-24-93; Ord. No. 2001-77, § 3, 5-15-01; Ord. No. 2001-124, § 1, 9-25-01; Ord. No. 2004-15, § 11, 3-16-04)

Sec. 21-54. Rules and regulations authorized.

The board of county commissioners may adopt by resolution reasonable rules and regulations to implement and carry out the provisions of this chapter.

(Ord. No. 1972-2, § 11, 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 5, 8-24-93)

Sec. 21-55. Accumulation of solid waste prohibited.

It shall be unlawful for any person to accumulate or permit to accumulate upon private property, in the county any solid waste except in accordance with the provisions of this chapter.

(Ord. No. 1972-2, § 5(1), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 6, 8-24-93)

Sec. 21-56. Solid waste burning.

It shall be unlawful to burn solid waste unless the applicable governmental permits have been obtained.

(Ord. No. 1972-2, § 5(2), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 7, 8-24-93)

Sec. 21-57. Solid waste containers.

(a) It shall be unlawful for any person occupying, owning or inhabiting any premises within the county, where solid waste is accumulated upon such premises, to fail or neglect to procure an appropriate garbage can or container with close fitting cover, for receiving and holding without

leakage or escape of odors, solid waste which is accumulated on such premises. All such accumulation shall be in garbage cans or containers until such time as the disposal of the solid waste is accomplished.

(b) All customers, occupants or owners of premises within the county receiving solid waste collection service shall provide garbage cans or containers capable of storing the accumulation of solid waste during the normal interval between collections and/or proper disposal.

(Ord. No. 1972-2, § 5(3), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 8, 8-24-93; Ord. No. 2001-77, § 4, 5-15-01)

Sec. 21-58. Transportation of solid waste.

(a) All solid waste hauled by any person over any road in the county shall be securely tied or covered, or both, during the hauling thereof.

(b) Removal of solid waste generated within the county for disposal outside the boundaries of the county is prohibited unless affirmatively approved by a majority vote of the board of county commissioners.

(c) Transportation of solid waste generated outside of the boundaries of the county for disposal within the county is prohibited unless affirmatively approved by a majority vote of the board of county commissioners.

(Ord. No. 1972-2, § 5(4), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1989-6, § 2, 5-16-89; Ord. No. 1993-11, § 9, 8-24-93)

Sec. 21-59. County shall provide disposal sites.

The county shall provide adequate sites for the disposal of solid waste collected from within the county.

(Ord. No. 1972-2, § 5(5), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 10, 8-24-93)

Sec. 21-60. Fees for the use of solid waste or recovered materials management facilities.

(a) All users of a county solid waste or recovered materials management facility shall pay the applicable fee for the use of the facility based on a schedule established by resolution of the board of county commissioners.

(b) The county shall deposit all fees received herein to any such fund as the board shall designate.

(c) The board may from time to time raise or lower the fees.

(Ord. No. 1972-2, § 5(6), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1989-6, § 1, 5-16-89; Ord. No. 1993-11, § 11, 8-24-93; Ord. No. 2002-57, § 2, 7-23-02)

Sec. 21-61. General requirements and responsibilities.

Each owner of a premise, as defined in this chapter, shall provide for the proper disposal of all solid waste, recovered materials and recyclable materials generated on their premises by:

- (1) Utilizing an approved franchisee for collection services; and/ or
- (2) Utilizing a solid waste management facility and paying the applicable fee, if any, for each trip thereto.

(Ord. No. 2001-124, § 2, 9-25-01; Ord. No. 2002-57, § 3, 7-23-02)

Sec. 21-62. Delivery of solid waste and recovered materials to designated facilities.

(a) No person in the county shall deliver or cause to be delivered solid waste generated or disposed of within the county by such person except to solid waste management facilities located within the county which is designated and controlled by the county unless optional disposal is affirmatively approved by a majority vote of the board of county commissioners. For the purposes of this section, a solid waste management facility controlled by the county includes one owned by the county or one as to which the county has made contractual arrangements for delivery of solid waste.

(b) All recovered materials, generated from a single family or multi-family dwelling unit located in the unincorporated areas of the county, that are collected by an Exclusive Franchised, franchised or permitted collector shall be delivered to a county designated recovered materials management facility unless such alternative delivery option is affirmatively approved by a majority vote of the board of county commissioners. The restrictions on the delivery of recovered materials generated by single family or multi-family residential dwelling units set out herein shall not apply to recovered materials that are source separated by the residential generator and which are: collected as part of a recycling program operated within a municipality within the jurisdictional boundaries of the municipality; collected as part of a recycling program by a not-for-profit community or civic organization; or where the recovered materials are collected by Lake County.

(c) The county may, at its option, by resolution, adopt regulations with respect to the authority granted pursuant to this article. Such regulations may provide, without limitation, that:

- (1) Different categories of solid waste or recovered materials, shall be delivered to different solid waste management or recovered materials management facilities; and
- (2) Each holder of an Exclusive Franchise, franchise or permit for the collection of solid waste shall, as a requirement for maintaining an Exclusive Franchise, franchise or permit with the county, deliver solid waste collected or disposed of within the county by such Exclusive Franchisee, franchisee or permittee to such solid waste management facility or facilities as the county designates.

(Ord. No. 1988-13, §§ 2, 3, 9-27-88; Ord. No. 1990-14, § 2, 7-17-90; Ord. No. 1993-11, § 13, 8-24-93; Ord. No. 2001-77, § 5, 5-15-01)

State law references: Authority to control collection and disposal of solid waste (recycling law), F.S. § 403.713.

Secs. 21-63--21-80. Reserved.

DIVISION 2. APPLICATION PROCESS

Sec. 21-81. Required.

It shall be unlawful for any person to collect, haul, or transport solid waste or recovered materials for hire within the county without first making application to the board of county commissioners and receiving an Exclusive Franchise, franchise or permit to engage in such occupation. The provisions of this section shall not apply to persons hauling their own solid waste or recovered materials which were generated on their own residential or commercial property. It is the intent of this section to prohibit any person from hauling solid waste or recovered materials for hire without first obtaining an Exclusive Franchise, franchise or permit from the county to perform such service.

(Ord. No. 1972-2, § 6(1), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 14, 8-24-93)

Sec. 21-82. Application, fees and general eligibility requirements.

(a) The county may charge an application fee for the processing of an application for a franchise or permit under this article. The application fee shall be set by the board of county commissioners by resolution and may be raised or lowered from time-to-time by the board. If a new fee schedule is established, it shall become effective upon the date of adoption. The county shall deposit all fees received herein to such fund as the board shall designate.

(b) Applicants for an Exclusive Franchise, a franchise or a permit as required by this chapter must file with the county a verified application, including the required application fee, in writing on a form to be furnished by the county. The application form shall be transmitted to the board for appropriate action.

(c) Prior to making application for a solid waste or recovered materials collection or sludge hauler franchise or permit, the applicant shall have the following:

- (1) A business phone and contact person;
- (2) A business tax receipt issued by the county tax collector;
- (3) Proof of insurance as required in section 21-85;
- (4) Up to date registration on each truck;
- (5) All trucks approved by the Lake County Public Health Unit, Environmental Health Section; and
- (6) Proper zoning clearance by the county.

Sludge hauler franchises or permits are additionally required upon application or renewal, to have disposal sites approved by the county growth management department and must have approval by the Lake County Public Health Unit, Environmental Health Section where applicable.

(Ord. No. 1972-2, § 6(2), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 15, 8-24-93; Ord. No. 2001-77, § 6, 5-15-01; Ord. No. 2007-27, § 11, 6-5-07)

Sec. 21-83. Investigation, approval and issuance of franchises and permits; fee.

(a) Upon receipt of an application for a solid waste franchise or permit, duly verified, the county shall determine the ability of the applicant to comply with the provisions of this chapter and determine the public need for the franchise or permit.

(b) If the board of county commissioners finds that the statements in the application are true and that the applicant is capable of complying with the provisions of this chapter, and other applicable rules and regulations, and that a public need exists for the franchise or permit, the board may grant the issuance of a franchise or permit. The board shall act within a reasonable

period of time. Approval of the franchise application is conditional upon the franchisee establishing or having a business office located in the county. Approval of the permit application is conditional upon the permittee having or establishing a toll free business phone number which shall be listed in the local phone directory.

(c) The board of county commissioners may deny any application for a franchise or permit if after due investigation, the board finds and determines as a matter of fact, statements made in the application for such franchise or permit are false, that applicant does not comply with the provisions of this chapter or other applicable regulations or that a public need does not exist for the franchise or permit. Reasons for such denial shall be stated in writing and mailed to the applicant.

(d) The applicant shall be granted a period of thirty (30) calendar days during which he or she may submit evidence to the board of county commissioners that he or she has rectified the grounds upon which his or her application for a franchise or permit was denied. Upon submission of such evidence, the board shall consider the application upon its own merits.

(e) After approval of an applicant by the board of county commissioners, the board shall advise the applicant by mail and shall issue a franchise or permit upon payment of the franchise or permit fee as established by resolution.

(f) Annual fees are due upon issuance or renewal of a franchise or permit. The board of county commissioners may from time to time raise or lower the annual franchise or permit fees. If a new fee schedule is established, it shall become effective as set forth in the resolution establishing the fees. The county commissioners shall deposit all fees received herein to such fund as the board shall designate.

(g) As a condition of the board of county commissioners issuing a franchise or permit, the applicant shall agree to the terms of this chapter and any rules or regulations enacted pursuant hereto.

(Ord. No. 1972-2, § 6(3), (4), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 16, 8-24-93; Ord. No. 2001-77, § 7, 5-15-01)

Sec. 21-84. Renewal.

(a) Exclusive Franchises granted pursuant to this section may be renewed in accordance with the terms of the Exclusive Franchise contract approved by the board of county commissioners.

(b) Franchises or permits granted pursuant to this chapter may be reviewed at the discretion of the board of county commissioners and renewed upon expiration thereof provided the board of county commissioners finds that the franchise or permit has, during the period of the expiring franchise or permit, operated in conformity with the provisions of this chapter and all applicable rules and regulations of the board. All franchises or permits may be renewed annually on October 1.

(Ord. No. 1972-2, § 6(5), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 17, 8-24-93)

Sec. 21-85. Insurance and indemnification of county.

(a) Each Exclusive Franchisee granted pursuant to this section shall provide and keep in force such insurance as is required under the terms of the Exclusive Franchise contract approved by the board of county commissioners.

(b) Each franchisee or permittee shall provide and keep in force a general liability insurance policy to include independent contractors in such company as approved by the county, a

business automobile liability insurance policy and workers' compensation and employers liability insurance policy. Such insurance coverage shall be in an amount as shall be set by the county for the specific franchise or permit and shall provide for indemnification of the county and the franchisee or permittee as their interest may appear against liability and property damage claims. Each franchisee or permittee shall furnish the county with appropriate certification from the insurance carrier showing such insurance to be in force at all times.

(c) A franchisee or permittee shall appear and defend all actions against the county arising out of the exercise of said franchise or permit and shall indemnify and save the county, its offices, employees and agents harmless and free of all claims, demands, action, or cause of action of every kind and description arising out of, or in any way connected with the exercise of the franchise or permit. An Exclusive Franchisee shall appear and defend all actions against the county as provided for in its Exclusive Franchise contract with the county.

(Ord. No. 1972-2, § 6(7), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 18, 8-24-93)

Sec. 21-86. Denial, suspension or revocation.

(a) *Generally.* The board of county commissioners is empowered to deny, suspend, or revoke any exclusive franchise, franchise or permit granted hereunder when the franchisee or permittee fails to comply with county ordinances, rules and regulations related thereto. Such action or revocation or suspension by the board may be taken only after twenty (20) days' notice in writing to the franchisee or permittee of the violation charged and the failure of the franchisee or permittee to remedy the violation within such time.

(b) *Change in ownership.* In the event there is a change in ownership of any kind or nature of the person to whom an Exclusive Franchise, franchise or permit under this chapter was issued, the Exclusive Franchise, franchise or permit issued may be revoked and cancelled at the option of the board of county commissioners, unless approval therefor was first obtained in writing from the board. The above shall apply to changes in controlling stock ownership in a corporation, except in a publicly held corporation, changes in partnerships or limited partnerships or percentage participation therein, or transfer from an individual to an individual of any interest in the operating company and apply whether the same be voluntary or involuntary. The Exclusive Franchisee, franchisee or permittee shall file a verified statement of ownership with the county July 1 of each year and shall verify that there has been no change of ownership under penalty of perjury. This statement may be in a form as prescribed by the board of county commissioners. The intent of this provision is to assure that any such change of ownership will not result in a violation of this chapter.

(c) *Inactivity.* If a franchise or permit under this article is and remains inactive for sixty (60) days, the board of county commissioners may cancel the franchise or permit.

(Ord. No. 1972-2, § 7(1), (2), (4), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 19, 8-24-93; Ord. No. 2001-77, § 8, 5-15-01)

Sec. 21-87. Assignment.

Franchises or permits granted under this chapter shall not be assignable, either voluntarily or by operation of law. If the franchise or permit shall at any time during the term of this permit become insolvent, or if proceedings in bankruptcy shall be instituted by or against the franchisee or permittee, or if the franchisee or permittee shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of the franchisee or permittee shall be appointed in any suit or proceeding brought by or against the franchisee or permittee or if the franchisee or permittee shall make an assignment for the benefit of creditors, then and in each and every such case, the

franchise or permit and the rights and privileges granted thereby shall immediately cease, desist and be forfeited and cancelled without notice and without suit or other proceedings.

(Ord. No. 1972-2, § 7(3), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 20, 8-24-93)

Sec. 21-88. Relinquishment of franchise or permit.

A franchisee or permittee under this chapter may of its own volition relinquish its franchise or permit.

(Ord. No. 1972-2, § 7(5), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 21, 8-24-93)

Editor's note: Ord. No. 1993-11, § 22, adopted Aug. 24, 1993, repealed § 21-89 in its entirety, which pertained to display of franchise number.

Secs. 21-89--21-110. Reserved.

DIVISION 3. EXCLUSIVE FRANCHISEE, FRANCHISEE OR PERMITTEE REGULATIONS

Sec. 21-111. General regulations.

(a) An Exclusive Franchisee, franchisee or permittee under this chapter shall not use a firm name containing the words 'County of Lake' or other words implying Lake County ownership. The franchisee or permittee shall establish and maintain a listed local or toll-free telephone where service may be applied for and complaints made.

(b) Pickup of normal solid waste is to be made under the terms of the franchise or permit. A franchisee or permittee or his, her or its agents shall not be required to pick up solid waste scattered by others, but shall be required to transfer solid waste from garbage cans or containers to collection vehicle without spillage.

(c) A franchisee or permittee under this chapter shall supply all of its customers with a correct copy of the customer responsibilities as the same are defined in division 4 of this article. Such copy shall be made a part of the franchisee's or permittee's contract with the commercial customer, and shall be in clear and readable print.

(d) Neither the county nor any of its officers or employees shall be liable for, or in any way responsible for the payments of any service rates or charges due the franchisee or permittee from customers.

(e) In the event of a major emergency, natural disaster or manmade disaster, causing a safety hazard or threat to the public health, safety and welfare of the citizens of the county, all fees, franchise and permit requirements may be temporarily suspended or deferred pursuant to the county's emergency management procedures.

(Ord. No. 1972-2, § 8(6), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 23, 8-24-93; Ord. No. 2001-77, § 9, 5-15-01; Ord. No. 2001-124, § 3, 9-25-01; Ord. No. 2002-57, § 4, 7-23-02)

Sec. 21-112. Records required.

(a) All franchised or permitted collectors under this chapter shall keep and maintain such operating records as the board of county commissioners may require to ascertain the extent of

compliance with this chapter and shall, if required by the board, submit periodic reports of such operations and collection activities.

(b) All franchisees and permittees shall insure that an accurate daily collection route manifest will be carried and maintained by each driver on each truck and will be made available to the director. The manifest must indicate customer name, customer location, type of business, type of waste, volume of waste accepted, time and date of collection by driver. Copies of daily manifest will be furnished to the director upon request.

(c) Sludge haulers are required to keep and maintain a manifest indicating customer name, customer location, type of business, grade of septage, volume of septage accepted, and place of disposal. Copies of daily manifest will be furnished to the director of the county growth management department.

(Ord. No. 1972-2, § 8(1), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 24, 8-24-93; Ord. No. 2001-77, § 10, 5-15-01)

Sec. 21-113. Hours of collection.

The hours and days of collection by persons holding an Exclusive Franchise, franchise or permit under this chapter in residential areas shall be as set forth in the terms of the specific Exclusive Franchise, franchise or permit.

(Ord. No. 1972-2, § 8(2), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 25, 8-24-93)

Sec. 21-114. Frequency of collections.

(a) Solid waste shall be collected by a person holding an Exclusive Franchise under this chapter at a frequency of not less than one (1) time per week, or at such other frequencies and intervals in specified areas as the Exclusive Franchisee and the county may agree upon and which may be set forth in the Exclusive Franchisee's solid waste collection contract as approved by the board of county commissioners.

(b) Solid waste shall be collected by a person franchised or permitted under this chapter at a frequency of not less than one (1) time per week, or at such other frequencies and intervals in specified areas as franchisee or permittee and the county may agree upon and which shall be set forth in the franchise or permit conditions.

(Ord. No. 1972-2, § 8(3), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 26, 8-24-93)

Sec. 21-115. Charges.

(a) An Exclusive Franchisee, franchisee or permittee under this chapter is not required to render service to commercial patrons whose payments are delinquent unless the terms of the exclusive franchise, franchise or permit requires such service under such circumstances.

(b) The collection of commercial solid waste, commercial recovered materials, and/or commercial recyclable materials shall be based upon individual contracts or agreements made by the franchisee or permittee with the respective customer.

(c) Rates charged for commercial solid waste, commercial recovered materials, and/or commercial recyclable materials collection shall be based upon agreement or agreements made with the respective customer unless such rates have been established by the county.

(d) The Exclusive Franchisee, franchisee or permittee shall notify the county in writing, in a

form acceptable to the county, when collection service with a commercial customer has been terminated for nonpayment of collection fees, or for any other reason. Said written notice shall be provided to county within five (5) working days of termination of service or at such other time as designated by the county.

(e) Rates charged for residential solid waste collection, residential recycling collection and/or residential recovered materials collection shall be established by the board in connection with the imposition of the waste materials assessment.

(Ord. No. 1972-2, § 8(4), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1992-7, § 1, 8-25-92; Ord. No. 1993-11, § 27, 8-24-93; Ord. No. 2001-77, § 11, 5-15-01; Ord. No. 2001-124, § 4, 9-25-01; Ord. No. 2002-57, § 5, 7-23-02)

Sec. 21-116. Parking of Exclusive Franchise, franchise or permit trucks.

(a) An Exclusive Franchisee, franchisee or permittee, under this chapter, shall not leave parked trucks loaded with solid waste for over a three-hour period within one thousand three hundred (1,300) feet of any residence.

(b) An Exclusive Franchisee, franchisee or permittee shall not park the trucks on property not properly zoned for such parking and in no case shall loaded trucks be parked for over a twelve-hour period.

(Ord. No. 1972-2, § 8(5), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1989-6, § 3, 5-16-89; Ord. No. 1993-11, § 28, 8-24-93)

Sec. 21-117. Required equipment.

(a) Before a franchise or permit is issued under this chapter the applicant's equipment shall comply with the regulations of the county and state and the provisions of this chapter.

(b) On issuance of the franchise or permit, all collector equipment shall be of a type as generally manufactured for the collection of the specific commodity that the collection equipment will be used to collect.

(c) All collection vehicles of a collector holding a valid Exclusive Franchise, franchise or permit, shall be maintained in such a clean and sanitary manner as required by the Lake County Public Health Unit, Environmental Health Section. Equipment shall be inspected for sanitary cleanliness at least once annually or more often by the Lake County Public Health Unit, Environmental Health Section to assure compliance with this chapter. Proof of the annual inspection shall be submitted to the county by October 1, annually. Failure to obtain the proper inspection of the trucks shall cause the franchise or permit to be automatically revoked within thirty (30) days from the due date of the annual inspection.

(d) Each vehicle hauling solid waste in the county for an Exclusive Franchised, franchised or permitted collector shall carry a broom, shovel, fire extinguisher, and other equipment as required by the Lake County Public Health Unit, Environmental Health Section.

(e) Containers provided by the Exclusive Franchisee, franchisee or permittee shall be watertight and of impervious material, provided with a tight fitting cover suitable to protect the contents from flies, insects, rats and other animals.

(f) Containers provided by the Exclusive Franchisee, franchisee or permittee shall be kept in sanitary condition by the provider, with the inside and the outside thereof washed at such times as to keep the same free and clean of all accumulated grease and decomposing material and so that no odor nuisance shall exist.

(Ord. No. 1972-2, § 9, 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1989-6, § 4, 5-16-89; Ord. No. 1993-11, § 29, 8-24-93)

Sec. 21-118. Display of Exclusive Franchise, franchise or permit number required.

Each Exclusive Franchisee, franchisee or permittee under this division shall have painted or stenciled on a prominent place on the exterior of each truck used in the collection or transportation of solid waste or recovered materials the following information:

Name of Franchisee or Permittee

Listed Telephone Number

Lake County Solid Waste (Exclusive Franchise) (Franchise) (Permit) No. _____

Rated Capacity in Cubic Yards/Gallons _____(C.Y.)

Health Dept. Permit No. _____(if applicable)

(Ord. No. 1993-11, § 30, 8-24-93; Ord. No. 2001-77, § 12, 5-15-01)

Sec. 21-119. Collection equipment; damage to roads.

Franchisee or permittee shall supply collection equipment appropriate to provide service to all premises within the applicable service area. Any damage to roadway surface caused by franchisee's or permittee's collection vehicle shall be repaired, at franchisee or permittee sole expense, to a condition comparable to the pre-damage condition or better.

(Ord. No. 2001-77, § 13, 5-15-01)

Secs. 21-120--21-135. Reserved.

DIVISION 4. REGULATIONS FOR CUSTOMERS OF COLLECTION EXCLUSIVE FRANCHISEES, FRANCHISEES OR PERMITTEES

Sec. 21-136. Compliance.

Customers of collectors holding valid Exclusive Franchises, franchises or permits under this chapter are expected to comply with the provisions of this division.

(Ord. No. 1972-2, § 10, 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 31, 8-24-93)

Sec. 21-137. Preparation of solid waste.

(a) Residential solid waste shall be properly containerized in garbage cans or containers, bundled or stacked in preparation for collection. Residential solid waste shall be generated solely at the dwelling unit of the customer wherein the residential solid waste is collected.

(b) Bulk items shall be separated from all residential solid waste in preparation for collection. Bulk items shall be usual to housekeeping and shall be generated solely by the customer at the dwelling unit of the customer wherein the bulk item is collected.

(c) Commercial solid waste shall be properly containerized in garbage cans or containers. Commercial solid waste shall be generated solely by the customer at the business unit of the customer wherein the commercial solid waste is collected.

(Ord. No. 1972-2, § 10(1), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 32, 8-24-93; Ord. No. 2001-77, § 14, 5-15-01)

Sec. 21-138. Garbage cans and containers--Generally.

(a) Garbage cans and containers shall be as defined in this chapter, article III, division 1.

(b) Garbage cans and containers provided by customer shall be kept in sanitary condition by the customer, with the inside and the outside thereof washed at such times as to keep the same free and clean of all accumulating grease and decomposing material and so that no odor nuisance shall exist.

(Ord. No. 1972-2, § 10(2), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 33, 8-24-93; Ord. No. 2001-77, § 15, 5-15-01)

Sec. 21-139. Garbage cans and containers--Size and weight.

(a) A garbage can, including its contents shall not exceed thirty-two (32) gallons in capacity nor fifty (50) pounds in weight or as permitted by law.

(b) Containers may be of any size as determined between the customer and the collector. However, the size shall be sufficient to provide that no residential garbage, rubbish or yard trash or commercial solid waste shall be placed outside of the container.

(Ord. No. 1972-2, § 10(3), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 34, 8-24-93)

Sec. 21-140. Garbage cans and containers--Placement.

(a) Those residential dwelling units utilizing garbage cans for the accumulation and storage of residential solid waste shall place their residential solid waste within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway or such other location agreed to by the collector and the customer. However off-street collection of residential solid waste from a residential dwelling unit shall be required if all adult occupants residing therein are handicapped and if a request for off-street service has been made to, and approved by the county.

(b) Those residential dwelling units which utilize containers for the accumulation and storage of their residential solid waste and all commercial customers shall place their containers of commercial garbage cans in a location which is readily accessible to the collectors crew and vehicle and not blocked.

(c) Containers shall not be placed on any county road right-of-way, easement or dedication of property maintained by the county. Containers shall only be placed where access to the containers can be gained from private property. Access to a container cannot be gained through or across a county road right-of-way, easement or dedication of property maintained by the county. Any containers located in violation of this section for thirty (30) days or more shall be removed by the county at the expense of the container owner. Containers utilized for solid waste and/or recycling collection intended to provide collection service to an otherwise unserviceable area may be placed contrary to this section only upon prior written authorization from the director.

(Ord. No. 1972-2, § 10(4), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 35, 8-24-93; Ord. No. 2001-77, § 16, 5-15-01)

Sec. 21-141. Garbage cans and containers--Curbside removal.

Garbage cans shall be removed within twelve (12) hours after collection and not placed outside more than twelve (12) hours prior to collection.

(Ord. No. 1972-2, § 10(5), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 36, 8-24-93)

Sec. 21-142. Hazardous waste.

No customer shall dispose of hazardous waste, as defined in article III, division 1, in any garbage can or container and shall dispose of the hazardous waste in accordance with local, state and federal requirements.

(Ord. No. 1972-2, § 10(6), 6-13-72; Ord. No. 1987-7, 5-5-87; Ord. No. 1993-11, § 37, 8-24-93)

Sec. 21-143. Recycling.

(a) Recyclable materials shall be separated from all solid waste and placed in a recycling container in preparation for curbside residential recycling collection or commercial recycling collection.

(b) Recycling containers shall be placed within three (3) feet of the curb, paved surface of the public roadway, closest accessible roadway or such other location agreed to by the collector and the customer. However off-street collection of recycling materials from a residential dwelling unit shall be required if all adult occupants residing therein are handicapped and if a request for off-street service has been made to, and approved by, the county.

(c) Recycling containers shall be removed within twelve (12) hours after collection and not placed outside more than twelve (12) hours prior to collection.

(Ord. No. 1993-11, § 38, 8-24-93)

Sec. 21-144. Yard trash.

(a) Yard trash shall be separated from all solid waste and recyclable materials and placed in a garbage can, bag or bundle.

(b) Yard trash shall be placed within three (3) feet of the curb, paved surface or the public roadway, closest accessible roadway or such other location agreed to by the collector and the customer.

(c) Once emptied, garbage cans utilized for yard trash collection shall be returned to the same point it was collected without obstructing roadways, driveways, sidewalks or mail boxes.

(Ord. No. 2001-77, § 17, 5-15-01; Ord. No. 2001-124, § 5, 9-25-01)

Sec. 21-145. Reserved.

DIVISION 5. PROPERTY ASSESSMENT FOR PAYMENT OF WASTE DISPOSAL COSTS*

***Editor's note:** Inclusion herein of Ord. No. 1988-14, §§ 2--6, adopted Oct. 11, 1988, as §§ 21-146--21-150 comprising a new Div. 5 to Art. III of Ch. 21, was at the discretion of the editor, the ordinance not being specifically amendatory of the Code.

Sec. 21-146. Reserved.

Editor's note: Ord. No. 1993-11, § 39, adopted Aug. 24, 1993, repealed § 21-146 in its entirety, which pertained to definitions.

Sec. 21-147. Imposition of assessments.

(a) *Findings.* It is hereby ascertained, determined and declared by the board that:

(1) Pursuant to Article VIII, Section 1 of the Florida Constitution, and F.S. §§ 125.01 and 125.66, the board has all powers of local self-government to perform county functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of county ordinances.

(2) Pursuant to F.S., § 403.706(1), the county has the general responsibility and authority to provide for the operation of solid waste management and disposal facilities and recovered materials management facilities to meet the needs of all incorporated and unincorporated areas within the county.

(3) All solid waste generated within the county shall be disposed of at a county designated solid waste management facility and, as permitted by law, all recovered materials generated in the county shall be transported to a county designated recovered materials facility.

(4) The existence of a building or structure which contains at least a minimum of one (1) residential dwelling unit or a commercial business and associated improvements on improved property results in such property generating solid waste or recovered materials or being capable of generating solid waste or recovered materials.

(5) The imposition of an annual waste materials assessment is an equitable and efficient method of allocating and apportioning the solid waste management system and recovered materials management system costs attributable to parcels of improved property within the unincorporated area of the county.

(6) The waste materials assessment to be imposed pursuant to this division is imposed by the board, not the property appraiser or tax collector. The duties of the property appraiser and tax collector under the Uniform Assessment Collection Act are ministerial.

(7) The annual waste materials assessment to be imposed pursuant to this division will constitute a non-ad valorem assessment within the meaning and intent of the Uniform Assessment Collection Act.

(b) *Authority.* The board is hereby authorized to impose waste materials assessments against all improved property within the unincorporated area of the county and within those municipalities that enter into applicable interlocal agreements with the county, at a rate of

assessment based upon the special benefit accruing to such property from the county's provision of solid waste management and recovered materials management services. Waste materials assessments shall be imposed in conformity with the procedures set forth in this division.

(1) The amount of the waste materials assessment imposed each fiscal year against each parcel of improved property shall be based upon:

- a. Classifications of improved property reasonably related to the generation of solid waste or recovered materials,
- b. The physical characteristics of a specific parcel or building,
- c. Any other factor reasonably related to the generation of solid waste or recovered materials, or
- d. Any combination of the foregoing; provided however, that the factor or combination of factors employed to compute the waste materials assessment shall result in a rate of assessment not in excess of the special benefit accruing to such parcel of improved property.

(c) *Initial proceedings.* The initial proceedings for the imposition of a waste materials assessment shall be the passage by the board of an initial assessment resolution (1) containing a brief and general description of the solid waste management and recovered materials management facilities and services to be provided, (2) describing the methods of apportioning the solid waste management system and recovered materials management system costs to compute the waste materials assessment for specific properties, (3) designating a rate of assessment, and (4) directing the county manager to (i) prepare the initial assessment roll, as required by section 21-147(d) of this section, (ii) publish the notice required by section 21-147(e) of this section, and (iii) mail the notice required by section 21-147(f) of this section.

(d) *Waste materials assessment roll.* The county manager shall prepare, or cause to be prepared, the initial assessment roll, which roll shall contain the following:

- (1) A summary description of all improved property in the unincorporated area of the county, conforming to the description contained on the tax roll.
- (2) The name of the owner of record of each parcel of improved property as shown on the tax roll, and
- (3) The amount of the initial waste materials assessment to be imposed against each such parcel of improved property. The initial assessment roll shall be retained by the county manager and shall be open to public inspection. The foregoing shall not be construed to require that the initial assessment roll be in printed form if the amount of the waste materials assessment for each parcel of property can be determined by the use of a computer terminal available to the public.

(e) *Notice by publication* The county manager, upon completion of the initial assessment roll, shall publish once in a newspaper of general circulation, published and circulating in the county, a notice stating that a meeting of the board on a certain day and hour, not earlier than twenty (20) calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the board will hear objections of all interested persons to the final assessment resolution which shall establish the rate of assessment and approve the aforementioned initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:

- (1) A geographic depiction of the property subject to the waste materials assessment;
- (2) A brief and general description of the solid waste management and recovered materials management facilities and services to be provided;

- (3) The rate of assessment;
- (4) The procedure for objecting provided in section 21-147(g);
- (5) The method by which the waste materials assessments will be collected; and
- (6) A statement that the initial assessment roll is available for inspection and all interested persons may ascertain the amount to be assessed against a parcel of property at the office of the county manager or other place designated by the board.

(f) *Notice by mail.* In addition to the published notice required by section 21-147(e), but only for the first fiscal year in which a waste materials assessment is imposed against improved property, the county manager shall provide notice by first class mail to each owner proposed to be assessed. Such notice shall include:

- (1) The purpose of the waste materials assessments,
- (2) The total amount to be levied against each parcel of property,
- (3) The unit of measurement applied to determine the waste materials assessment,
- (4) The number of such units contained in each parcel of property,
- (5) The total revenue to be collected by the county from the waste materials assessments,
- (6) A statement that failure to pay the waste materials assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property,
- (7) A statement that all affected owners have a right to appear at the hearing and to file written objections with the board within twenty (20) days of the notice, and
- (8) The date, time and place of the hearing. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least twenty (20) calendar days prior to the hearing to each owner at such address as is shown on the tax roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The county manager may provide proof of such notice by affidavit.

(g) *Adoption of final assessment resolution.* At the time named in such notice, or to which an adjournment or continuance may be taken by the board, the board shall receive any written objections of interested persons and may then or at any subsequent meeting of the board adopt the final assessment resolution which shall:

- (1) Repeal or confirm the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the board;
- (2) Establish the rate of assessment; and
- (3) Approve the initial waste materials assessment roll, with such amendments as it deems just and right.

The waste materials assessments so approved shall be in proportion to the special benefits. All objections to the final assessment resolution shall be made in writing, and filed with the county manager at or before the time or adjourned time of such hearing. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year the waste materials assessments are imposed hereunder.

(h) *Effect of final assessment resolution.* The waste materials assessments for the initial fiscal year shall be established upon adoption of the final assessment resolution. The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including, but

not limited to, the method of apportionment, the initial rate of assessment, the initial assessment roll and the levy and lien of the waste materials assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of board action on the final assessment resolution. The assessment roll, as approved by the final assessment resolution, shall be delivered to the tax collector, or such other official, as the board, by resolution, deems appropriate.

(i) *Adoption of annual rate resolution.* The board shall adopt an annual rate resolution during its budget adoption process for each fiscal year following the initial fiscal year for which waste materials assessments are imposed hereunder. The annual rate resolution shall approve the assessment roll for the upcoming fiscal year. The assessment roll shall be prepared in accordance with the method of apportionment set forth in the final assessment resolution. If for any fiscal year (1) the proposed rate of assessment exceeds the rate included in any notice previously provided to the owners of residential property pursuant to sections 21-147(e) and 21-147(f) hereof or (2) the method of apportionment is changed from that represented by any notice previously provided to the owners of improved residential property pursuant to sections 21-147(e) and 21-147(f) hereof, the annual rate resolution for such fiscal year shall not be adopted prior to a public hearing on the rate of assessment, for which notice is provided by publication and first class mail in substantially the manner set forth in sections 21-147(e) and 21-147(f) hereof. The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in 21-150 of this division is used to collect the waste materials assessments, or such other official as the board by resolution shall designate. If the waste materials assessment against any property shall be sustained or reduced or abated by the court, an adjustment shall be made on the waste materials assessment roll.

(j) *Lien of waste materials assessments.* All waste materials assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(k) *Procedural irregularities.* Any informality or irregularity in the proceedings in connection with the levy of any waste materials assessment under the provisions of this division shall not affect the validity of the same after the approval thereof, and any waste materials assessment as finally approved shall be competent and sufficient evidence that such waste material assessment was duly levied, that the waste materials assessment was duly made and adopted, and that all other proceedings adequate to such waste materials assessment were duly had, taken and performed as required by this division; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a waste materials assessment imposed pursuant to this division must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

(l) *Correction of errors and omissions.*

(1) No act of error or omission on the part of the property appraiser, tax collector, county manager, board or their deputies or employees, shall operate to release or discharge any obligation for payment of a waste materials assessment imposed by the board under the provisions of this division.

(2) When it shall appear that any waste materials assessment should have been imposed under this division against a parcel of property specially benefitted by the provision of solid waste management and recovered materials management facilities and services, but that such property was omitted from the waste materials assessment roll, the board may, upon provision of appropriate notice as set forth in this section, impose the applicable waste materials assessment for the fiscal year in which such error is discovered, in addition to the applicable waste materials assessment due for the prior

two (2) fiscal years. Such total waste materials assessments shall become delinquent if not fully paid upon the expiration of ninety (90) days from the date of the adoption of said resolution. The waste materials assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and may be collected as provided in this section.

(3) The county manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the owner of any property subject to a waste materials assessment, to correct any error in applying the waste materials assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the waste materials assessment imposed under the provisions of this division. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by the county manager and not the property appraiser or tax collector.

(4) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies upon timely written request and direction of the county manager.

(Ord. No. 1988-14, § 3, 10-11-88; Ord. No. 1992-7, § 3, 8-25-92; Ord. No. 1993-11, § 40, 8-24-93; Ord. No. 2001-77, § 18, 5-15-01)

Sec. 21-148. Hardship assistance, non-accessible premise credit and annual vacancy credit.

(a) *Hardship assistance.* An owner of improved residential property who meets low income level and asset guidelines utilized by the county in the administration of its social service program shall be eligible to receive payment of the waste material assessment by the county. Applicants for this hardship assistance shall provide written documentation satisfactory to the county in order to qualify for such assistance. Any amounts provided for hardship assistance shall be paid by the county from funds other than those generated by waste materials assessments.

(b) *Non-accessible premise credit.* An owner of improved residential property may file a petition with the county manager, or designee, requesting reimbursement for a portion of the collection costs of the waste materials assessment if access to his/her property can not be gained by use of an accessible roadway or public roadway . Upon receipt of said petition, the county manager, or designee, shall: (i) within ten (10) days, forward the petition to the applicable franchisee for review and comment; (ii) visit the property site within thirty (30) days with the franchisee, if possible; (iii) meet with the applicable franchisee to discuss the matter within thirty (30) days; (iv) provide a written determination to the petitioner within forty-five (45) days; and, (v) if applicable, provide a collection refund within sixty (60) days. The county manager, or designee, shall determine whether the property is in fact not accessible based upon the location of the property, the type, width and construction of the subject road, the property's solid waste collection history, the franchisee's equipment and the franchisee's opinion on whether the franchisee's collection equipment can access the property without substantial damage to the road and/or property. If the county manager, or designee, determines that the petitioner's property is not accessible based on the above criteria the petitioner shall be entitled to a credit for a portion of the collection costs of the waste materials assessment. Improved residential property determined by the county manager, or designee to not be franchisee

accessible shall utilize a county designated facility or residential drop-off convenience center for disposal of residential solid waste and recycling.

(c) *Annual vacancy credit.* An owner of improved residential property who can demonstrate that the assessed property was unoccupied and vacant during the entire fiscal year in which a waste materials assessment has been imposed, shall be entitled to reimbursement for the waste materials assessment imposed and paid during that fiscal year. Owners seeking such reimbursement shall provide written documentation satisfactory to the county in order to qualify for such a credit and reimbursement.

(d) *Time period; waiver.* Any request for hardship assistance, or an annual vacancy credit shall be filed with the county manager, or designee by March thirty-first of the fiscal year following the fiscal year in which the hardship assistance, or annual vacancy credit is sought. Failure to file such request within the time permitted shall constitute a waiver of any such right.

(Ord. No. 1988-14, § 4, 10-11-88; Ord. No. 1992-7, § 4, 8-25-92; Ord. No. 1993-11, § 41, 8-24-93; Ord. No. 2002-57, § 6, 7-23-02)

Sec. 21-148.1. Interim waste materials assessment.

(a) For all parcels for which a building permit is issued on or after October 1, 2006, an interim waste materials assessment may be imposed against the property and included for collection with the building permit fees at the time a building permit is issued. The amount of the interim waste materials assessment shall be calculated upon a monthly rate, which shall be one-twelfth (1/12) of the annual rate for such property computed in accordance with the applicable waste materials rate resolution for the fiscal year in which the building permit is issued and, when applicable, it shall be computed in accordance with subsequent rate resolutions for fiscal years following issuance of the permit. Such monthly rate shall be imposed for each full calendar month until such time as the assessment is placed on the tax bill. The rate schedule shall allow four (4) months for the residential units to be completed. A property owner may request from the county manager or designee a refund of the interim rate assessment for those residential units which take longer than four (4) months to receive a certificate of occupancy; provided, however, that the refund shall only be for the number of months exceeding the initial four-month period through the date the certificate of occupancy is issued. No building permit shall be issued until full payment of the interim waste materials assessment is received by the county. Issuance of the building permit by mistake or inadvertence, and without the payment in full of interim waste materials assessment, shall not relieve the owner of such property of the obligation of full payment. For the purpose of this provision, such interim waste materials assessment shall be deemed due and payable at the time the building permit is issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the receipt of the invoice.

(b) For all parcels issued a building permit prior to October 1, 2006, the property owner shall receive an invoice at the time a certificate of occupancy is issued, and shall pay the invoice for the interim waste materials assessment. The amount of the interim assessment shall be calculated in the same manner as set forth in subsection (a) above. Subsequent assessments shall be placed on the tax roll as soon as practicable. The interim waste materials assessment shall be deemed due and payable upon receipt of invoice and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the receipt of the invoice.

(c) The county manager or designee is additionally authorized to invoice any property owner

for the interim waste materials assessment when it has been determined that the assessment has not been paid, with such invoicing to continue until such time as the assessment can be placed upon the tax roll. The interim waste materials assessment shall be deemed due and payable upon receipt of invoice and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the receipt of the invoice.

(Ord. No. 1992-7, § 5, 8-25-92; Ord. No. 1993-11, § 42, 8-24-93; Ord. No. 2001-77, § 19, 5-15-01; Ord. No. 2001-113, § 2, 8-7-01; Ord. No. 2006-93, § 2, 9-5-06)

Sec. 21-148.2. Reserved.

Editor's note: Ord. No. 2002-57, § 7, adopted July 23, 2002, repealed § 21-148.2, which pertained to access to residential drop-off convenience centers. See the Code Comparative Table.

Sec. 21-149. Collection of waste materials assessments.

(a) *Method of collection.* The waste materials assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act. The board shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this division may be combined with any other hearing or notice required to collect the waste materials assessments on the same bill as ad valorem taxes.

(b) *Alternative method of collection.* In lieu of utilizing the uniform assessment collection act, the county may elect to collect the waste materials assessments in accordance with this section 21-149(b).

(1) Notice of the lien resulting from imposition of the waste materials assessment shall be recorded in the official records of the county.

(2) The county shall have the right to appoint or retain an agent to foreclose and collect all delinquent waste materials assessments in the manner provided by law. Delinquent waste materials assessments shall be subject to interest at the rate established annually by the board of county commissioners. A waste materials assessment shall become delinquent if it is not paid within thirty (30) days from the date any installment is due. The county or its agent shall cause notice to be sent to any property owner who is delinquent in payment of his or her waste materials assessment installment within sixty (60) days from the date such installment was due. Such notice shall state in effect that the county or its agent shall initiate a foreclosure action within ninety (90) days of the date of the installment due date if it is not paid. Between the seventy-fifth and ninetieth day after the due date of the delinquent installment, the county or its agent may declare the entire unpaid balance of the delinquent waste materials assessment to be in default and cause such delinquent property to be foreclosed in the method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law. Commencing on the ninetieth day after the due date of the delinquent installment, the county or its agent shall declare the entire unpaid balance of the waste materials assessment to be in default and cause the delinquent property to be foreclosed as described above. Any board action required in the collection of waste materials assessments may be by resolution. All costs, fees and expenses, including reasonable attorney fees, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the same pursuant to decree rendered therein. At the sale pursuant to decree in any such action, the county may be the purchaser to the same extent as an individual person; or corporation.

(3) The county may join in one action the collection of waste materials assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the county and its agents, including reasonable attorney fees, in collection assessments and any other costs incurred by the county as a result of such delinquent waste materials assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(c) *Responsibility for enforcement.* It shall be the duty of the county and its agent, if any, to enforce the prompt collection of waste materials assessments by the means herein provided. The duties related to collection of waste materials assessments may be enforced at the suit of any holder of obligations secured by such waste materials assessments in a court of competent jurisdiction by mandamus or other appropriate proceedings or action.

(Ord. No. 1988-14, § 5, 10-11-88; Ord. No. 1992-7, § 7, 8-25-92; Ord. No. 1993-11, § 44, 8-24-93)

Sec. 21-150. Applicability; general provisions.

(a) *Applicability.* The provisions of this division shall be applicable throughout the unincorporated county and within those municipalities that have entered into an interlocal agreement that allows for such application. Nothing contained in this division shall be construed to require the imposition of waste materials assessments against property in public ownership or property the board otherwise finds not to receive a special benefit from the provision of solid waste management and recovered materials management services or facilities. However, in the instance when an assessment is not imposed against property in public ownership, the board shall identify and fund the cost of solid waste management and recovered materials management services and facilities for such property in public ownership through a source of funds other than the waste materials assessment.

(b) *Alternative method.* This division shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred to other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This division, being necessary for the welfare of the inhabitants of the county, shall be liberally construed to effect the purposes hereof.

(Ord. No. 1988-14, § 6, 10-11-88; Ord. No. 1992-7, § 8, 8-25-92; Ord. No. 1993-11, § 45, 8-24-93; Ord. No. 2001-77, § 21, 5-15-01)