

ORDINANCE 23-28

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA, RELATING TO ADMINISTRATION; AMENDING CH. 50 SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION SERVICE; AMENDING ART. I SEC. 50.16 SOLID WASTE COLLECTION; VIOLATIONS; PENALTIES; SETTING FORTH A CIVIL ENFORCEMENT PROCESS FOR ISSUANCE OF SOLID WASTE CITATIONS AND FINES; AUTHORIZING SPECIAL MAGISTRATE HEARINGS FOR APPEAL OF SOLID WASTE CITATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances for the City of Port St. Lucie authorizes issuance of civil citations as a mechanism for enforcing compliance with the city code; and

WHEREAS, the City Council finds it in the best interest of the city to authorize issuance of solid waste citations as a civil process to enforce compliance with the solid waste collection code; and

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

SECTION 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Ordinance.

SECTION 2. Title V. - Public Works, Chapter 50. - Solid Waste and Recyclable Materials Collection Service, Article 1, Solid Waste Collection of the Code of Ordinances is amended as follows:

**TITLE V. - ~~PUBLIC WORKS~~ OFFICE OF SOLID WASTE, CHAPTER 50. -
SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION SERVICE**

ARTICLE I. – SOLID WASTE COLLECTION

Sec. 50.02. Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein when not inconsistent with the

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context. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

Biomedical waste means any solid or liquid waste that may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes that contain human disease-causing agents; discarded sharps; and used absorbent materials saturated with blood or body fluids.

Bulk waste ~~***Bulky wastes***~~ shall mean a large item that is discarded because of normal housekeeping activities on a person's own premises and cannot be placed in a garbage ~~can~~ cart because of its size, shape, or weight. ~~***Bulky***~~ ***Bulk*** waste includes furniture, fixtures, white goods, and large pieces of carpet. ~~***Bulky***~~ ***Bulk*** waste does not include any exempt waste.

City shall mean the City of Port St. Lucie, Florida, a municipal corporation, acting through the city council or city manager.

City manager shall mean the city manager of the City of Port St. Lucie. When used in this chapter it shall also mean the city manager's designated representative.

Code Compliance Officer shall mean any official as may be appointed or designated by the city whose duty it is to ensure code compliance, including but not limited to inspectors of the city's code compliance division and department of solid waste, as well as sworn police officers or duly certified fire inspectors of the St. Lucie County Fire District.

Collection shall mean the process whereby solid waste and recyclable materials are removed from improved property and transported to a solid waste disposal facility or other solid waste management or recycling facility.

Collection container shall mean garbage ~~cans~~ carts, recycling ~~containers~~ carts, and mechanical containers.

Commercial container shall mean a container which:

- (a) Consists of four permanently attached sides and a bottom;
- (b) Is made of metal, durable plastic or other nonabsorbent material;
- (c) Is designed to be free standing;
- (d) Is to be emptied and transported by mechanical means; and

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- (e) Is used to collect or store commercial solid waste, recycling or construction and demolition debris.

Commercial containers include, but are not limited to, dumpsters, compactor units, and roll-on/roll-off containers.

Commercial trash shall mean any and all accumulations of paper, rags, excelsior, wooden, paper or cardboard boxes or containers, sweepings, car parts, tires and any other accumulations not included in the definition of garbage, generated by the operation of stores, offices, and other business places. Commercial trash shall also include all trash placed in public receptacles in parks, playgrounds, public streets, golf courses, and all other public places in the city.

Commercial property shall mean all real property that is not classified as residential property. Commercial property includes: property used primarily for commercial purposes, such as hotels, motels, stores, restaurants, distribution centers, business offices, service stations, and recreational vehicle parks; property used primarily for institutional purposes, such as governmental offices, religious institutions, hospitals, schools, and not-for-profit organizations; apartments, condominiums, townhouses, and other buildings that contain 4 or more dwelling units; and other property that contains 4 or more dwelling units, including commercially zoned property that is used primarily for residential purposes, including property used exclusively as a recreational vehicle park, as defined in Section 513.01(11), Florida Statutes, and property that is classified as “RMH-5” or “PUD” under the city’s zoning regulations. Vacant land, not classified as improved real property, and industrial property, shall be deemed Commercial Property.

Construction and demolition waste shall have the meaning set forth in Section 403.703(6), Florida Statutes, for construction and demolition debris, except that construction and demolition waste means discarded materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wall board, and lumber, resulting from the construction, destruction, or renovation of a structure.

Contractor shall mean the person or entity who has entered into a service agreement with a commercial property or residential customer.

Contractor Waste shall mean any waste generated from contractual work and not normal housekeeping activities or small DIY projects.

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Curbside shall mean a location adjacent to a road or right-of-way that abuts a property and provides access for the franchise hauler's collection vehicles. If there is no public access to the property, curbside means a location that is adjacent to a roadway where the franchise hauler may lawfully gain access and provide collection service. In all cases, the curbside location must be within 3 feet of the curb or the edge of the road.

Director shall mean the City Manager or the City Manager's designee(s).

Disaster debris shall mean debris that is produced or generated by a natural or human event that is declared a disaster by the federal government or the city. Disaster debris includes yard waste, construction and demolition waste, and bulk ~~bulky~~ waste that is generated by such disaster.

Disposal costs is hereby defined to mean the "tipping fees" or landfill costs charged to the franchise hauler by others for disposal of the garbage and trash collected by the franchise hauler.

Division manager shall mean the senior employee that has been designated by the franchise hauler to serve as the franchise hauler's primary representative when dealing with the city on matters involving the service agreement.

Do-it-yourself project shall mean minor residential repairs done exclusively by the homeowner or occupant.

Dwelling unit shall mean any type of structure or building, or a portion thereof, intended for or capable of being used for residential living. A dwelling unit includes a room or rooms constituting a separate, independent living area with a kitchen or cooking facilities, a separate entrance, and bathroom facilities, which are physically separated from other dwelling units, whether located in the same structure or in separate structures. However, a room in a licensed hotel or motel is not a dwelling unit.

Franchise hauler shall mean any hauler or collector who provides solid waste collection services within the City pursuant to, or under authority granted by, a permit, contract, franchise, or other agreement with the City and who is required to perform certain solid waste collection services under the provisions of the franchise agreement and this chapter.

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

Garbage cart shall mean a collection container provided by the City or franchise hauler that is made of heavy-duty plastic or other imperious material, with enclosed sides and a bottom, mounted on two wheels, equipped with a tight-fitting hinged lid, having a capacity of approximately 100 gallons or less, and used for the automated or semi-automated collection of garbage and household trash.

Hazardous material shall mean a solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of stored, treated, or otherwise managed. Hazardous material includes any material or substance identified as a hazardous waste or hazardous substance in the Florida Administrative Code, Florida Statutes, or other applicable law.

Holiday shall mean Independence Day, Thanksgiving Day, Christmas Day, and any other days designated and agreed to by the director and division manager.

Household trash shall mean all accumulations of waste materials from the operation of a home, which are not included in the definition of garbage. Household trash shall include all appliances, furniture, toys, building material wastes from do-it-yourself projects, and anything else put out for collection. Waste generated by building contractors, subcontractors and/or tree surgeons rendering professional service is not to be considered as household trash.

Industrial waste shall mean any and all debris and waste products generated by canning, manufacturing, food processing (except restaurants), land clearing, (except do-it-yourself projects), and public works-type construction projects, whether performed by a governmental unit or by contract.

Land clearing debris shall mean all trees, tree trunks, stumps, rocks, bushes, vegetation, soil, and other materials resulting from a land clearing or lot clearing operation from an undeveloped parcel.

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Mechanical container shall mean a dumpster, roll-off container, compactor, or other large container that is placed on and removed from a ~~person's~~ premises with mechanical equipment and used for the collection of solid waste or recyclable materials. However, garbage and recycling carts are not mechanical containers.

Multi-family dwelling units shall mean any 4 or more dwelling units located under one roof. Multi-family dwellings include apartments, condominiums, townhouses, mixed-use buildings, and other buildings that contain 4 or more dwelling units.

Person shall mean any person, natural or artificial, including any individual, firm, corporation, partnership, joint venture, municipality, county, authority, state or federal governmental agency or any other association or entity, however organized.

Radioactive waste shall mean any equipment or materials that are radioactive or have radioactive contamination, and are required by law to be stored, treated, or disposed of as radioactive waste.

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

Recyclable materials means those materials designated as such by the director that are capable of being recycled, and that would otherwise be processed or disposed of as solid waste.

Recycling cart shall mean a collection container provided by the City or the franchise hauler that is made of heavy-duty plastic or other impervious material, with enclosed sides and a bottom, mounted on two wheels, equipped with a tight-fitting hinged lid, having a capacity of approximately 100 gallons or less, and used for the automated or semi-automated collection of recyclable materials.

Recyclable container shall mean any container approved by the director for the collection of recyclable materials, including recycling carts and mechanical containers.

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Refuse shall mean, as used in this chapter, all solid waste, garbage, garden and yard trash, rubbish, household trash, commercial trash and industrial waste trash not classified as recyclable materials.

Residential property shall mean each parcel of improved property that is used for residential purposes and has no more than 3 dwelling units on it. Residential property includes single family residences, duplexes, triplexes, and other buildings used for residential purposes, apartment buildings, condominiums, townhouses, dwelling units in mixed use buildings, cooperatives established pursuant to Chapter 719, F.S., time-share apartments, and leased residential premises of the classes described above are residential property.

Rubbish shall mean all combustible and non-combustible waste materials, ~~except garbage.~~

Scavenge shall mean the unauthorized and uncontrolled removal of containerized material stored or placed at a point for subsequent collection or from a solid waste processing or disposal facility.

Sludge shall mean 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 disposal appurtenances or any other waste having similar characteristics.

Service contract shall mean the solid waste franchise agreement between the city and the franchise hauler, its successors and assigns, providing for the collection of solid waste within the city, including the proposal, award of contract, executed contract, bonds, standard specifications, supplementary specifications, plans, supplementary agreement, exhibits and addenda that may be entered into, all of which documents are to be treated as one instrument whether or not set forth at length in the form of contract.

Solid waste shall mean, sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment, or operation of an air pollution control facility, or trash, garbage, refuse, special waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. Solid waste includes biomedical waste, bulk ~~bulky~~ waste, commercial waste, construction and demolition waste, disaster debris, electronic

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equipment, garbage, hazardous material, land clearing debris, radioactive waste, recyclable materials, residential waste, tires, white goods, and yard waste.

Solid waste services assessment area shall mean the area within the incorporated limits of the City of Port St. Lucie.

Special magistrate shall mean a hearing officer appointed pursuant to chapter 37 of this Code.

Trash shall be construed to include commercial and industrial trash, household trash, and garden and yard trash, as each is herein defined, unless specifically provided to the contrary.

White goods shall mean large, discarded appliances, including but not limited to, refrigerators, ranges, washing machines, clothes dryers, water heaters, freezers, microwave ovens, and air conditioners.

Yard waste shall mean vegetative matter resulting from yard and landscaping maintenance, including, but not limited to shrub and tree trimmings, grass clippings, palm fronds, branches, and bulk ~~bulky~~ yard waste. Yard wastes does not include land clearing debris.

Sec. 50.03. Mandatory collection of solid waste.

- (a) The following types of waste generated in the city by the following property types shall be collected by an approved franchise hauler pursuant to a service agreement subject to the limitations and restrictions set forth herein:
- (1) Residential property where waste is collected at curbside: garbage, yard waste, bulk ~~bulky~~ waste, and recyclable materials.
 - (2) Residential property where waste is collected in mechanical containers: garbage, rubbish, bulk ~~bulky~~ waste, and recyclable materials.
 - (3) Commercial property: garbage and rubbish.
- (b) The owner(s) of the property shall be responsible for the use of such service by all occupants of the property and shall be responsible for the payment of service charges in accordance with the applicable service agreement. Charges for such beneficial services include the cost of collection, disposal, and administration, including the payment of any delinquent amounts owed, and may be collected pursuant to any method authorized by law ~~la~~ including the imposition of fees at the time of issuance of any permit or certificate of occupancy, collection by the franchise hauler ~~contractor~~, or as a non-ad

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valorem assessment pursuant to the provisions of section 197.3632, Florida Statutes. In the event the city elects to collect the charges pursuant to the provisions of 197.3632, Florida Statutes, the adoption of the final assessment resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of a special benefit and fair apportionment to the property; the method of apportionment and assessment; the initial rate of assessment; the maximum assessment rate, if any; the initial assessment roll; and the levy and lien of the solid waste assessments) unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 30 days from the date of city council action on the final assessment resolution.

Sec. 50.04. Exempt waste.

The following types of exempt waste are not subject to the franchise hauler's exclusive franchise. These exempt wastes may be collected by the owner or occupant of the property where the exempt waste is generated, or by the owner or occupant's agent, and taken to any facility that is licensed to receive such materials. The person generating such exempt waste shall be responsible for legally removing and properly disposing of said waste, and such disposal shall be at the cost of the owner or possessor thereof.

- (a) Land clearing debris.
- (b) Construction and demolition waste exceeding 2 cubic yards per service.
- (c) Roofing materials generated, collected, and transported by a roofing company.
- (d) Recovered materials that are generated on commercial property.
- (e) Recyclable materials that are generated by a commercial property and separated from the property's solid waste by the commercial property.
- (f) Any material that a residential property generates and separates from its solid waste for recycling, if that type of material is not recycled at the designated facility used by the franchise hauler pursuant to the service agreement.
- (g) Excavated fill and earthen material.
- (h) Solid waste and by-products generated from an industrial process.
- (i) Liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.
- (j) Animal bedding, animal wastes, and other trash and materials resulting from farming, equestrian, or agricultural operations.
- (k) Wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts, including used oil, tires (~~except as provided in section 50.06(d)(2)~~), and lead-acid batteries.

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- (l) Boats, boat motors, and boat trailers.
- (m) Disaster debris.
- (n) Hazardous material, biomedical waste, and radioactive waste.
- (o) Sludge.
- (p) Any waste, not subject to mandatory collection, as designated by the director.

Sec. 50.05. General set out provisions.

The following provisions of this section shall apply to all persons that own or have custody or control of a residential or commercial property within the city:

- (a) ~~Garbage and other putrescible waste shall be contained in a plastic bag prior to being placed into a garbage cart before it is set out for collection.~~ All household garbage and trash shall be placed in a plastic bag prior to being put into a garbage cart.
- (b) Recyclable materials shall be placed or set out in a recycling ~~container or~~ cart. Recyclable materials shall not be placed in the same collection container with other solid waste.
- (c) Recyclable materials shall not be in a plastic bag prior to placing into a recycling cart or container.
- (d) Garbage cart shall not be overfilled; the lid on a collection container shall be closed securely.
- (e) Garbage and recycling carts, when filled, shall not weigh more than the designated cart limitations.
- (f) Scrap metal and appliances shall be set out as bulk ~~bulky~~ waste. Freezers, refrigerators, clothes washers, clothes dryers, dishwashers, or similar airtight units shall have the doors removed before being placed for collection. All stand-up items shall be laid flat. Scrap metal such as poles, pipes and antennas shall be cut or bent into pieces not longer than 6 feet.
- (g) All solid waste shall be free of protruding nails, screws, staples, or other dangerous conditions.
- (h) No garbage bags or recyclables shall be placed outside or on top of the collection container.
- ~~(h) All household garbage and trash shall be placed in a plastic bag prior to being put into a garbage cart.~~

Sec. 50.06. Residential collection at curbside.

- (a) General provisions.
 - (1) Garbage, rubbish, yard waste, bulk ~~bulky~~ waste, and recyclable materials shall be placed at curbside before 7:00 a.m. on the

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scheduled collection day for such materials but no sooner than 6:00 p.m. the night before collection.

- (2) Empty collection carts must be removed from curbside the day of collection.
 - (3) Collections shall not occur on holidays and as otherwise deemed necessary by the director. Collections that would normally occur on these holidays shall be rescheduled as specified by the franchise agreement.
- (b) Garbage and rubbish.
- (1) Garbage and rubbish shall only be set out at curbside as specified by the franchise agreement, except on holidays and as otherwise deemed necessary by the director.
 - (2) Garbage and rubbish shall be set out in garbage carts, which shall be placed at curbside. ~~Excess garbage and rubbish shall be placed in plastic bags, which shall be placed next to the garbage cans at curbside.~~
 - (3) All garbage and rubbish, before being placed in a collection cart ~~container~~, shall be drained of all free liquids prior to being deposited for collection.
 - (4) No person shall place in a collection cart such material as unwrapped razor blades, broken glass, or similar materials, which could cause possible injury to collection personnel.
 - (5) Garbage shall not be placed, mixed, or commingled with curbside piles of bulk ~~bulky~~ waste, yard waste, and/or construction and demolition debris.
 - (6) No bagged garbage and rubbish shall be placed next to or on top of collection cart for collection.
- (c) Recyclable materials.
- (1) Residents who wish to participate in recycling shall recycle with the franchise hauler unless the recyclables are directly donated to a private organization qualified pursuant to section 501(c)(3) of the Internal Revenue Code, or directly delivered by a means other than curbside collection to a commercial recycling center for payment.
 - (2) The director shall designate the recyclable materials that will be collected by franchise hauler ~~contractor~~.
 - (3) Recyclable materials shall only be set out at curbside as specified by the franchise agreement except on holidays and as otherwise deemed necessary by the director.

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- (4) All recyclable materials shall be separated from garbage and other refuse and shall be set out at curbside in a recycling cart provided by the franchise hauler.
 - (5) No person shall scavenge, collect, pick up, or remove any recyclable material after the material has been placed at curbside without prior approval by the city.
- (d) Bulk ~~Bulky~~ waste.
- (1) Bulk ~~Bulky~~ waste shall not be set out more than 24 hours prior to the day of the month specified for bulk waste collection of the property ~~waste shall only be set out at curbside for collection as specified by the franchise agreement, except on holidays and as otherwise deemed necessary by the director.~~
 - (2) No more than 2 cubic yards may be set curbside for collection. One cubic yard measures 3 feet wide by 3 feet long by 3 feet deep.
 - (3) Any carpet set out for collection at curbside must be rolled and tied or otherwise bound in 4-foot lengths or less.
 - (4) Bulk ~~Bulky~~ waste from a ~~construction, or demolition and~~ renovation do-it-yourself project, ~~or that is generated by a builder, building contractor, or privately employed handyman service while working on the residential property where the construction, demolition or renovation waste was generated~~ shall be set out as bulk ~~bulky~~ waste and shall not exceed 2 cubic yards in total volume. All such waste more than 2 cubic yards must be stored and collected in a mechanical container unless removed from the property by the person that generated the waste materials.
 - (5) ~~Bulky waste combined with other trash and debris set out for collection by investment property owners, landlords or their representatives, shall not exceed more than 2 cubic yards. All such waste exceeding 2 cubic yards must be stored and collected in a mechanical container and removed from the property by the person that generated the waste materials. No contractor waste shall be placed curbside. All such waste must be removed and properly disposed of by a contractor.~~
- (e) Yard waste.
- (1) Yard waste shall only be set out at curbside once each week per the franchise agreement, limited to four (4) cubic yards per week per household, except on holidays and as otherwise deemed necessary by the director.
 - (2) Yard waste shall be of such size that it can be readily loaded by one person. Stumps, trees, limbs, and other larger pieces of yard waste

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shall be cut in lengths of no greater than 4 feet (except palm fronds) and shall not exceed 6 inches in diameter or 50lbs in weight. Yard waste shall be stacked neatly in a pile at curbside and may be tied in a bundle with twine or rope.

- (3) Leaves, twigs, grass clippings, and other small pieces of yard waste shall be placed in garbage cans or biodegradable bags, limited to no more than 50 lbs. per container.
- (4) All yard waste ~~and bulky yard waste exceeding 4 cubic yards in volume~~ generated by a commercial lawn care company, plant nursery, commercial tree trimming and removal company, ~~or privately employed handyman service acting in the capacity of a contractor while working on a residential property~~, shall be hauled away by the contractor or person generating the waste.

Sec. 50.07. Residential collection for multi-family dwellings.

- (a) A person residing in a multi-family dwelling that receives collection service at curbside shall comply with the provisions in section 50.09.
- (b) A person residing in a multi-family dwelling that receives collection service with a mechanical container shall place all garbage, rubbish, household trash, bulk ~~bulky~~ waste and yard waste in the mechanical container and all recyclable materials in a separate recycling container located at the multi-family dwelling.

Sec. 50.08. Commercial collection-

- (a) *Garbage and rubbish.* Commercial properties shall set out garbage and rubbish in either a garbage cart ~~can~~ or mechanical container as determined by the city
- (b) *Recyclable materials.*
 - (1) Commercial properties are permitted to use any recycling vendor however, if a commercial property utilizes a recycling cart for curbside collection, services shall be provided by the franchise hauler.
 - (2) Commercial properties that recycle using franchise hauler shall have at least one collection container for collection of garbage and rubbish and a separate recycling container for collection of recyclable materials or recovered materials.
- (c) *Yard waste.* Commercial properties shall secure collection of all yard waste through the contractor of their choice.

Sec. 50.09. Collection Containers

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- (a) General provisions.
- (1) Director approval. Each garbage cart, recycling cart, and mechanical container is subject to the director's approval. The director may prohibit the use of any collection container that is found to be unsuitable or undersized.
 - (2) Garbage carts. Each garbage cart used for residential collection at curbside must be one of the carts provided by the city or franchise hauler and hot-stamped or stenciled with the city's logo.
 - (3) Recycling carts. Each recycling cart used for residential collection at curbside must be one of the carts provided by the franchise hauler and hot-stamped or stenciled with the city's logo.
 - (4) Mechanical Containers. Mechanical containers shall either be supplied by the franchise hauler or purchased or leased by the commercial establishment from a person other than franchise hauler if it can be serviced by franchise hauler's equipment and comply with the regulations herein. Mechanical containers shall have attached lids, unless the director approves a different design for a particular use, or they are open top roll-off containers used for the collection of construction and demolition waste. Mechanical containers shall have four permanently attached solid, durable sides and a bottom. Each mechanical container (except open top roll-off containers) shall have a heavy-duty removable plug in the bottom. Each mechanical container shall be made of a metal, durable plastic or other nonabsorbent material and shall be designed to be free standing.
- (b) Container placement.
- (1) All collection containers shall be placed in locations that are safely and readily accessible to a collection vehicle. Containers shall be placed a minimum of three (3) feet from any object or other container to ensure proper collection.
 - (2) Collection containers used for residential curbside collection shall be kept indoors or in a portion of the rear or side yard- that is screened from view by walls, fences, or hedges, or otherwise stored out of view from abutting streets.
 - (3) Collection containers and collection areas utilized at multi-family residential complexes, commercial, industrial, office, and institutional facilities shall comply with the regulations set forth in section 158.232 of this Code.
- (c) Maintenance and repair of containers.

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- (1) Garbage carts. Each person shall be responsible for maintaining the cleanliness of their garbage cart.
- (2) Recycling carts. Each person shall be responsible for maintaining the cleanliness of their recycling cart.
- (3) Mechanical containers. Each person shall be responsible for cleaning, maintaining, and repairing any mechanical container that the person owns or leases from a person or entity other than the franchise hauler.

Sec. 50.10. Construction Sites; contractor waste

- (a) All building contractors and persons acting in the capacity of a building contractor, engaged in building or remodeling operations shall be responsible for cleanup and disposal of all solid waste generated because of the permitted work. Construction sites shall always be kept clean and free of trash and debris.
- (b) Except as otherwise authorized in section 50.06(d)(4), construction and demolition waste generated or accumulated at the site of a construction, demolition or renovation project shall be stored in a mechanical container until removed from the site. The mechanical container shall remain on the site from pouring of the slab to final grade. The use of any collection container other than a mechanical container to store said construction and demolition waste is prohibited. The director or building official may prohibit the use of any mechanical container or other container that is found to be unsuitable or undersized.
- (c) It shall be unlawful for any person to accumulate, burn or bury any solid waste, building waste, sod, rocks, or other land clearing debris on a construction site in the city, and arrangements must be made for removal of same in accordance with the provisions of this chapter, to a designated disposal facility, at no cost to the city.
- (d) Construction and demolition waste or other solid waste which is cast, blown, or scattered upon any adjacent public or private property as a result of construction, demolition or renovation activities shall be removed by the person responsible for the construction, demolition or renovation activities no later than the end of the day on which the activities occur or earlier if the waste material causes an unsanitary nuisance.
- (e) Contractor Waste. Builders, contractors, construction tradesmen, tree surgeons, landscapers, handyman services and all other services that perform work on a residential property shall be responsible for removal, and the legal, and lawful disposal of all debris they generate as a result of said work and shall use vehicles and containers designed or outfitted to prevent

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the waste carried therein from being blown, dropped, or spilled from the vehicle or container. The property owner remains responsible for legally removing and properly disposing of debris not removed by the contractor or franchise hauler, and such removal and disposal shall be at the cost of the owner or possessor of the property.

Sec. 50.11. Director authority

The director shall have the authority to establish or change the size, type, and number of collection containers, days, frequency, and location of collection, amount of solid waste services needed, and such other matters relating to the collection, conveyance, and disposal of solid waste, and to change and to modify the same, after notice as required by law, provided that such regulations are not contrary to the provisions of this chapter. These containers shall be emptied on a schedule agreed upon by the customer and the franchise hauler, as specified in the franchise agreement.

Sec. 50.12. Dispute resolution process.

- (a) The director shall decide all questions and controversies that may arise concerning the quality and sufficiency of franchise hauler's services as required by the service agreement, and the interpretation of the service agreement's provisions.
- (b) The director shall promptly be notified regarding a dispute with the franchise hauler.
- (c) The director shall notify the franchise hauler and customer in writing concerning the director's decision about the disputed issues.
- (d) The franchise hauler and customer shall have 3 service ~~calendar~~ calendar days, ~~not including Sundays and holidays,~~ to comply with the director's decision or, in the alternative, provide the director with a written request for a hearing before the city manager.
- (e) If a request for a hearing is filed, the city manager shall act upon such request within 30 days. The city manager shall provide the franchise hauler and the customer an opportunity to present their arguments and evidence concerning the relevant issues. The city manager shall notify the customer, the franchise hauler, and the director in writing concerning the city manager's decision. The city manager may:
 - (1) Confirm, in whole or in part, the director's findings;
 - (2) Grant relief to the customer or the franchise hauler; or
 - (3) Take whatever other action the city manager deems necessary and appropriate.

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- (f) The city manager's decision shall be final and shall not be subject to further appeal within the city.

Sec. 50.13. General authority.

- (a) The city council is hereby authorized to enter service contracts with any qualified person or entity to provide for the exclusive collection of solid waste and recyclable materials, from residential and commercial property within the solid waste services assessment area.
- (b) Service contracts may require payment of a franchise fee as set by city council to compensate the city for the cost of administration, supervision, and inspection rendered for effective performance of franchise hauler(s)-and shall include such other terms and provisions as city council may deem necessary or advisable.
- (c) The franchise hauler shall have rights to collect solid waste and recyclable materials, as defined herein and in the contract, within the corporate limits of the City of Port St. Lucie, provided that debris generated by land clearing operations and construction and demolition debris may be collected, hauled and lawfully disposed of by persons other than the franchise hauler. Provided, further, that the foregoing shall not be construed to preclude (i) organizations qualified pursuant to section 501(c)(3) of the Internal Revenue Code as a charitable organization from implementing limited private recycling programs within the City of Port St. Lucie; or (ii) delivery directly, by a means other than curbside collection, of recyclable materials to a commercial recycling facility for payment by residential or commercial customers.
- (d) The Director shall have the authority to make regulations concerning the days of collection, type and location of waste containers, and such other matters pertaining to the collection, conveyance, and disposal and to change and to modify the same, after notice as required by law, provided that such regulations are not contrary to the provisions of this chapter.

Sec. 50.14. Prohibited acts.

No person shall:

- (a) Place solid waste in another person's collection cart ~~container~~.
- (b) Set out solid waste for collection on any property other than where the solid waste was generated.
- (c) Place hazardous material, radioactive waste, biomedical waste, flammable material, explosive material, or any other dangerous or highly corrosive material in containers for regular collection. The party generating such waste shall be responsible for legally removing and properly disposing of

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said waste, and such disposal shall be at the cost of the owner or possessor thereof. Flammable or explosive material shall be disposed of as directed by the fire chief, or the fire chief's designated representative.

- (d) Throw, place, deposit, scatter or cause to be thrown, placed, deposited or scattered any solid waste in or upon any street, alley, sidewalk, rights-of-way, body of water, public or private property within the city except as provided in this Code.
- (e) Scavenge any materials from any solid waste that is containerized for collection within the city without prior approval by the city.
- (f) Accumulate or cause to be accumulated any bulk waste, yard waste, industrial waste, commercial waste, junk, garbage, rubbish, or other solid waste in or upon any property owned by a person or in a person's control. Any such accumulation on any property in the city is hereby declared to be a nuisance. Creation or maintenance of a backyard compost pile shall be considered recycling, not disposal, unless the site results in the creation of a nuisance.
- (g) Burn or allow the open burning of solid waste within the corporate limits of the city.
- (h) Transport over any public road any solid waste, which is subject to leakage or spillage unless the solid waste is securely tied or covered so as to prevent leakage and spillage.
- (i) Allow solid waste, or any liquid saturating, covering or contained in solid waste, to spill, blow or drop from any vehicle on any road, street, or private or public property.
- (j) Dispose of or bury solid waste at any site, public or private, which is unapproved by the city or to process recyclable materials at any site, public or private, which is unapproved by the city.
- (k) Interfere with the orderly and legitimate collection of solid waste or disturb or scatter solid waste stored in collection containers.
- (l) Placing garbage bags or recyclable materials outside their respective collection container.
- (m) Placement of automotive, motor vehicle, or trailer tires.
- (n) Place a garbage cart or recycling cart curbside prior to 6:00 p.m. the day before the scheduled collection day for such materials at that parcel.
- (o) Leave an empty garbage cart or an empty recycling cart curbside after midnight of the scheduled collection day for such materials at that parcel.
- (p) Fail to properly dispose of contractor waste.
- (q) Place or leaving any garbage, rubbish, or other disposed items outside of an appropriate garbage cart or recycling cart, unless qualifying as bulk waste or yard waste, and then only on an approved collection day.

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- (r) Placing or leaving bulk waste curbside at any time other than the scheduled collection day for the parcel or 24 hours prior thereto.

Sec. 50.15. Interpretation, construction of chapter.

This chapter shall be interpreted and construed in conjunction with the terms of the franchise agreement except as otherwise provided.

Sec. 50.16. Violations; penalties.

- (a) The property owner, occupant, tenant, lessee, and agent shall be jointly and severally responsible for complying with these regulations.
- (b) It shall be unlawful for any person to fail, neglect, or refuse to comply with and abide by each provision of this Ordinance. The performance on each day of any prohibited act or practice, or the failure to perform on each day any required act or practice shall constitute a separate offense and shall be punishable as such.
- (c) The provisions of this chapter shall be enforced pursuant to any, all, or any combination of means available to the city under this Code, state law or other applicable law, including but not limited to chapters 37 and 40 of this Code and Chapter 162, Florida Statutes, as amended.
- (d) Jurisdiction. The provisions of this code may be enforced by any official as authorized herein, and the Special Magistrate for the City shall have jurisdiction of any violation of this code and may impose such civil penalties as prescribed in this chapter and by law.

Sec. 50.17 Enforcement; solid waste citation authorized; civil penalty.

- (a) Generally. Violations of this article may be enforced pursuant to any of the following provisions:
- (1) Chapter 37
 - (2) Chapter 40
 - (3) Section 50.17(b) of this article
- (b) Solid waste citation authorized. If a violation of this article, for which the city has set a specific civil penalty, has occurred or exists, a code compliance officer may issue a solid waste citation (hereinafter "citation").
- (1) The code compliance officer may issue a citation to any person failing or refusing to comply with any section of this chapter.
 - (2) The code compliance officer may issue a citation to any person (hereinafter "violator") within the city where standards relating to the collection and disposal of solid waste are not met.
 - (3) Delivery of citation. The citation shall be delivered by the method provided.

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- i.) Hand delivery; or
 - ii.) Posted conspicuously on the property where the notice shall be visibly seen.
 - iii.) If the citation was posted on the property or the violator is not the property owner, then the citation shall also be delivered by regular mail to the address listed in the county property appraiser's database.
- (4) Citation appeal. A citation issued for violations of this chapter may be appealed to the special magistrate by submission of a written request to the code enforcement division no later than 72 hours from the date to correct the violation.
- i.) Waiver. Failure to submit an appeal as prescribed in this article shall be deemed a waiver of all rights to a hearing and to otherwise appeal the citation.
 - ii.) Notices. Hearing notices may be sent by either hand delivery or certified mail.
 - iii.) Scheduling. The code compliance officer shall schedule the appeal within 14 days of receipt.
 - iv.) Conduct of hearing. The hearing shall be governed by the City's quasi-judicial proceedings, as applicable. At the conclusion of the hearing, the special magistrate shall determine if a violation exists or occurred and enter an order requiring the payment of the civil penalty, and the administrative costs, plus set a date certain for compliance, if necessary.
 - v.) Payment constitutes admission. Payment of a citation shall constitute admission of a violation of this article for purposes of finding a repeat violation.
- (5) Correction of violation. The violator shall correct the violation within the time period provided.
- i.) A violation relating to cart placement or garbage collection and disposal shall be corrected within 24 hours of the date and time of the citation.
 - ii.) A violation relating to bulk, yard, or other solid waste collection and disposal shall be corrected within 48 hours of the date and time of the citation.
 - iii.) If a code compliance officer has reason to believe a violation or the condition causing a violation presents a serious threat to the public health, safety, welfare, or if the violation is irreparable or irreversible in nature, the officer may

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- immediately issue a ticket and does not have to provide the person with time to correct the violation as prescribed in this article.
- iv.) *Failure of violator to correct; corrective action by city:*
Unless the violator corrects the violation as prescribed in this article, the city shall have the right to enter upon the land and may take the necessary corrective action to remedy the violation. The city may bill the violator an amount sufficient to reimburse the city's costs, which bill shall become due and payable within 30 days of the mailing of such bill.
- (a) If the violator is not the property owner, then the bill shall also be delivered by regular mail to the address listed in the county property appraiser's database.
- (b) Nothing in this article shall prohibit the city from correcting the violation as prescribed in this article during the pendency of an appeal of a citation unless a stay has been granted by the special magistrate or as otherwise provided for and authorized by law or the Florida Rules of Appellate Procedure.
- v.) *Repeat violations.* The code compliance officer is not required to provide a time to correct for repeat violations. The code compliance officer may immediately issue a citation or schedule a hearing before the special magistrate. A repeat violation occurs when:
- (a) the same violator commits two or more subsequent violations of the same nature within 12 months; or
- (b) the same violator previously paid a citation for a violation of the same nature.
- (c) *Emergency abatement.* Nothing in this section shall be construed to prohibit the city from immediately removing solid waste on an emergency basis after issuing a citation and allowing the violator a period as prescribed herein to correct the violation or appeal. If the violation is not corrected or citation appealed, then city or its contractor may abate the violation and bill the violator for the cost of such abatement which bill shall become due and payable within 30 days of the mailing. If the violator is not the property owner, then the bill shall also be delivered by regular mail to the address listed in the county property appraiser's database. An emergency is defined as a condition which poses a serious threat to public health, safety, and welfare.

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(d) Civil Penalty.

<u>Violation</u>	<u>First Offense</u>	<u>Second Offense</u>
<u>Cart placement/garbage collection</u>	<u>\$35</u>	<u>\$70</u>
<u>Bulk, yard, solid waste</u>	<u>\$110</u>	<u>\$220</u>
<u>Emergency Abatement</u>	<u>\$300</u>	<u>\$600</u>

Sec. ~~50.18~~ 50.17. Conflicts between chapter and franchise agreement.

In the event any provision of this chapter conflicts with any provision of the franchise agreement, the interpretation and meaning most favorable to the city shall control and apply, except where prohibited by Article I, Section 10 of the Florida Constitution.

Secs. ~~50.18, 50.19. Alternate Enforcement; remedies:~~

(a) In addition to any other remedies provided by this chapter or any other city ordinance, the city shall have judicial remedies available to it for violations of this chapter or any other lawful rule or regulation promulgated hereunder as enumerated below but not limited to:

(1) The city may institute a civil action in a court of competent jurisdiction to establish liability and to recover damage for any costs incurred by it in conjunction with the abatement of any condition prohibited by the provisions of this chapter.

(2) The city may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with the terms of this chapter or any rule or regulation promulgated hereunder, to enjoin and prohibit said violation or to compel the performance of actions which will result in compliance with the terms of this chapter.

(b) These remedies are cumulative, and the use of any appropriate remedy shall not constitute an election of other remedies by the city. The use of one remedy shall not preclude the use of any others.

SECTION 3. Conflict. If any ordinances, or parts of ordinances, are in conflict herewith this Ordinance shall control to the extent of the conflicting provisions.

SECTION 4. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or is declared illegal, invalid, or

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unconstitutional by a Court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

SECTION 5. Codification. The provisions of this Ordinance shall be made a part of the Code of Ordinances of the City of Port St. Lucie, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; the word “ordinance” may be changed to “section” or other appropriate word as may be necessary.

SECTION 6. Effective Date. This Ordinance shall become effective immediately upon final adoption on second reading.

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PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this
_____ day of _____, 2023.

**CITY COUNCIL
CITY OF PORT ST. LUCIE**

By: _____
Shannon Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney