

## INTERLOCAL AGREEMENT

The Town of Beverly Beach, hereinafter called "Beverly Beach," and the City of Flagler Beach, hereinafter called "Flagler Beach," hereby agrees to the following:

1. In consideration of the monetary payments hereinafter provided and the mutual covenants and promises hereinafter contained, Flagler Beach agrees to provide Solid Waste Removal Services within the corporate boundaries of Beverly Beach in a manner, degree and quality at least equal to the manner, degree and quality provided by Flagler Beach in its incorporated area. In addition, Beverly Beach agrees to abide by Chapter 11, Code of Ordinances, City of Flagler Beach, Garbage and Trash.
2. It is expressly understood and agreed that Flagler Beach shall be an independent contractor, responsible for furnishing all equipment, personnel, tools, worker's compensation, liability, hazard and all other applicable kinds of insurance and Flagler Beach shall assume and maintain responsibility for the direction and control of any Solid Waste Services and personnel and equipment that may be required hereunder.
3. Beverly Beach shall indemnify and save harmless Flagler Beach from and against any and all claims, suits, actions, damages or causes for action arising from the provision of services by Flagler Beach under this contract and which are a result of the negligent acts of the citizens of Beverly Beach or of the municipal government of Beverly Beach or any of its employees, independent contractors or other agents during the term of this agreement.
4. Flagler Beach shall indemnify and save harmless Beverly Beach from and against any and all claims, suits, actions, damages or causes for action arising from the provision of services by Flagler Beach under this contract and which are a result of the negligent acts of the employees, independent contractors or other agents of Flagler Beach or of the municipal government of Flagler Beach or any of its employees, independent contractors or other agents during the term of this agreement.
5. This agreement shall be for a term of five (5) years unless terminated. Either party may terminate this agreement upon ninety days' written notice of its intent to terminate this agreement delivered to the other party. The term shall commence on October 1, 2019.
6. Beverly Beach shall pay Flagler Beach a monthly rate for such services payable in monthly installments within thirty (30) days of commencement of service, subject to future annual increases according to Chapter 11, Code of Ordinances, City of Flagler Beach, Solid Waste, attached hereto as Exhibit "A" which may be adjusted as provided for in this agreement based on the application of the per dwelling unit price and number of dwelling units serviced.
7. This agreement may be renewed for periods of five (5) years by the mutual agreement of the parties hereto if a written agreement is made at least sixty (60) days prior to the expiration of this agreement. Failure to renew within this time frame will cause this agreement to conclude at the end of the five (5) year period.
8. This agreement may be terminated by Flagler Beach in the event that Beverly Beach fails or refuses to tender payment due hereunder and such default continues for a period of ninety (90) days after Flagler Beach gives written notice of such default to Beverly Beach, and such default is not cured within such time.

9. Any waiver at any time by either party hereto of its rights under this agreement with respect to the other party or any matter arising in connection with this agreement shall not be considered a waiver with respect to any subsequent default or matter.
  
10. This writing constitutes the entire agreement between the parties. No amendment or modification of this agreement outside of the annual adjustment to rates and base fees established by Chapter 11, Section 11-15 of the Flagler Beach Code of Ordinance shall be effective unless done in writing and signed by both parties. The current Resolution 2017-35 in effect is attached hereto as Exhibit "B".

Town of Beverly Beach:

Attest:

\_\_\_\_\_  
Stephen Emmett, Mayor

\_\_\_\_\_  
Jim Ardel, Town Clerk

City of Flagler Beach

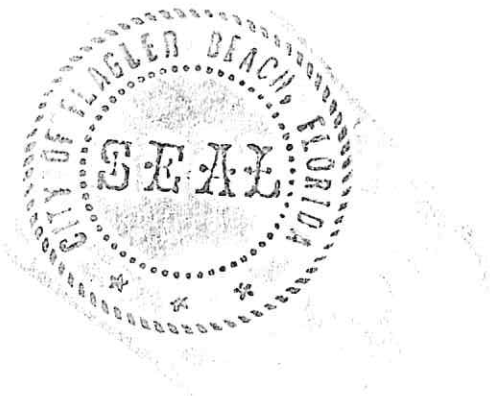
Attest:



Linda Provencher, Mayor



Penny Overstreet, City Clerk



## EXHIBIT A

### Chapter 11 - SOLID WASTE

#### ARTICLE I. - REGULATIONS

##### Sec. 11-1. - Definitions.

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

*Building or demolition contractor-haulers* means builders or building or demolition contractors who own roll-off containers and haul away their own construction and demolition debris, instead of contracting with a person or entity engaged in the business of hauling away construction and demolition debris, trash, or garbage.

*Collector* means any contractor who provides for the collection, transportation, and disposal of solid waste and construction and demolition debris from roll-off containers within the city limits. Building or demolition contractor-haulers as defined herein are not collectors for the purposes of this article.

*Commercial can* refers to a container used for the storage of garbage or recycling made of nonabsorbent material, provided with a closely fitting cover, side handles and thirty-two (32) gallons or less gross capacity and weighs less than fifty (50) pounds.

*Commercial container* refers to all front-load and rear-load dumpsters, roll-off, roll-off compactor, front load verti-pak compaction container, or cart that is designed or intended to be mechanically or manually dumped into a loader-packer type truck.

*Commercial tote* refers to containers that are purchased from the city, which are designed to be mechanically lifted and emptied and are used for the storage of garbage or recycling materials that are awaiting pickup.

*Commercial service* includes but is not limited to hotels, motels, lounges, restaurants, stores, shops, offices and service stations as well as any nonresidential units used for retail or wholesale trade that will be charged the commercial rate.

*Construction and demolition debris* refers to material defined in F.S. § 403.703, and as modified by Flagler County pursuant to F.S. § 403.707(9)(j), all as amended from time to time.

*Customer* means the person responsible for payment for city solid waste services provided to

a specific location whether residential or commercial.

*Director*, for purposes of this section, refers to the solid waste superintendent.

*Garbage* means containers and other household wastes, animal, vegetable food or any organic waste resulting from storage, preparation, cooking or handling food whether attributed to residential or commercial activity. Also includes all non-recyclables and packing materials.

*Gross revenue*. All revenues derived directly or indirectly by a licensee, its affiliates, subsidiaries, parents, and any person in which a licensee has a financial interest, exclusive of all taxes, from or in connection with the operation of a solid waste or construction and demolition debris collection service from roll-off containers in the City of Flagler Beach.

*Household hazardous waste* or *HHW* includes but is not limited to paint, paint thinner, mineral spirits, gasoline, kerosene, fuel propane, oil, transmission fluid, brake fluid, gear oil, acids or solvents, florescent bulbs and other like items.

*Industrial waste* means wastes and debris from brick, concrete block, roofing shingle or tile; floor coverings; plants; debris and wastes accumulated from land clearing, excavating, building, rebuilding and altering of buildings, structures, roads, streets, sidewalks or parkways; and any waste materials which, because of their volume or nature, do not lend themselves to collection and incineration commingled with ordinary garbage and yard waste.

*Licensee* means any collector duly licensed by the City of Flagler to collect, transport, and dispose of solid waste and construction and demolition debris from roll-off containers in the city limits.

*Non-recyclables* means those materials that are not listed as recyclables, do not have a recyclable emblem on them, as well as plate glass, window glass, dishes, cookware, pyrex, motor oil bottles, acid jugs, styrofoam packing material, bubble wrap, waxed boxes, light bulbs or tubes, and paper materials such as mail.

*Private use container* means any garbage, yard waste or industrial waste container owned by someone other than the City of Flagler Beach. Such containers include commercial cans, commercial containers, commercial totes, industrial waste container (dumpster), recycling container, or residential containers. These containers are owned or leased by private individuals for the disposal of commercial, residential or industrial waste.

*Property owner* means the owner of developed or undeveloped property within the City of

Flagler Beach.

*Public use container* means any garbage container provided by the City of Flagler Beach. Such containers include beach cans, park cans and parking lot cans. These containers are provided for the users of these facilities, for the garbage accumulated while using the facility and are specifically not to be used for the disposal of residential or industrial waste.

*Recyclables* means those materials identified by the City of Flagler Beach and F.S. § 403.703, as amended from time to time, as capable of being recycled, which would otherwise be disposed of as garbage. These items include but are not limited to: metal cans, aluminum products, glass products, newspapers (meaning all newspapers, newspaper advertisements, supplements, comics or enclosures which are considered recyclable by the city; all plastic soda, milk, water, dish soap, laundry soap, and other like containers that have a 1, 2, 3, 4, 5, or 6 recyclable emblem on them; magazines, phonebooks, cardboard, plastic bags and shredded paper, such as computer paper, pasteboard, wrapping paper, stationary products and the like). Recyclables are not solid waste.

*Recycling container* means a container made of nonabsorbent materials with side handles and thirty-two (32) gallons or less gross capacity that is clearly marked as recyclables. This shall not include commercial tipper carts.

*Residential container* means a container used for the storage of garbage or yard waste made of nonabsorbent material, provided with a closely fitting cover, side handles and thirty-two (32) gallons or less gross capacity.

*Residential service* means garbage, yard waste and recycling service provided to a single-family residential unit.

*Roll-off container* means a large metal or plastic box normally used for construction and demolition debris or other large amounts of solid waste and yard trash, usually of the ten-, twenty-, thirty-, or forty-cubic-yard size, which are lifted by mechanical means which roll-offs may be either open top or enclosed compaction type.

*Single-family residential unit* means a single-family home, a multi-family residential unit, condominium unit, apartment unit, or other dwelling unit that is billed per unit.



*Solid waste* includes, but is not limited to, garbage, yard waste, white goods, and other material identified in F.S. § 403.703, as amended from time to time. Solid waste does not include recyclables.

*Solid waste disposal system* means the sanitation department that is operated by the City of Flagler Beach or such other agency as it may designate.

*Special pickup service* means an excessive amount of garbage or yard waste as determined by the director to be beyond reasonable amounts that do not lend themselves to normal service. This includes but is not limited to accumulation of more than eight (8) thirty-two (32) gallon containers of garbage or yard waste; a pile of yard waste no larger than three (3) feet wide six (6) feet high and six (6) feet long, or no more than four (4) cubic yards or yard waste that is not placed in an approved manner, (see standards for yard waste collection).

*White goods* means any large household appliance typically finished with enamel or stainless steel, e.g. refrigerators, stoves, microwaves, dishwashers, washing machines, dryers or other metal goods.

*Yard waste* means vegetative organic matter resulting from the routine maintenance of the grounds of a developed property and includes such materials as tree and shrub trimmings, grass clippings, palm fronds, and small branches.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08; Ord. No. 2010-01, § 2, 4-8-10; Ord. No. 2015-15, § 1, 12-17-15)

**Cross reference—** General definitions, § 1-2.

Sec. 11-2. - Separation of trash required.

Persons using the City of Flagler Beach solid waste disposal system, whether for commercial or residential service, shall be required to separate all items into separate containers as follows:

- (1) Garbage.
- (2) Yard waste.
- (3) Recyclables.
- (4) White goods.

Crews may refuse pickup of any items that have not been separated, do not meet the standards for collection as stated in this article, contain prohibited items or are not placed in the appropriate area for collection.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-3. - Authority of city manager to promulgate regulations.

The city manager may from time to time promulgate regulations concerning the types of containers to be used, days of placement of containers, and other matters necessary for the implementation of the terms of this article.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-4. - Containers—Size, inspection, maintenance and replacement for residential service.

Garbage and yard waste containers that are manually loaded shall be no larger than thirty-two-gallon capacity. Such containers must have a cover and proper handles so that they may be managed by one (1) person. The container shall not weigh more than fifty (50) pounds when loaded. Paper bags are not permitted for use as garbage or yard waste containers. The foregoing does not apply to individually purchased and maintained commercial containers or garbage dumpsters. Notwithstanding the above, tightly secured plastic garbage bags will be permitted for garbage. No plastic garbage bags will be permitted for yard waste.

Recycling containers that are manually loaded shall be no larger than thirty-two-gallon capacity. Such containers must have proper handles so that they may be managed by one (1) person. The container shall not weigh more than fifty (50) pounds when loaded. Paper or colored plastic bags are not permitted for use as recycling containers. The foregoing does not apply to individually purchased commercial tipper carts.

The city reserves the right to inspect all commercial, garbage, yard waste and recycling containers and to demand replacements if necessary in the interest of public health and safety or employee safety. The customer is responsible for the routine maintenance of commercial, garbage, yard waste or recycling containers and to keep them in a sanitary manner.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-5. - Container—Location for residential service.

(a) *Location for residential collection of residential containers.*

- (1) It shall be unlawful to place any garbage, yard waste, recycling or white goods on city-owned property; except city street rights-of-way immediately adjacent to and abutting upon the property of the person causing such garbage, yard waste, recycling or white goods to be so placed for scheduled pickup.
- (2) Placing garbage, yard waste, recycling or white goods on the street rights-of-way immediately adjacent to and abutting a vacant lot is strictly prohibited. However, in the case of the vacant lot owner performing routine trimming and maintenance generating yard waste on their lot, the owner may contact the city for a special pickup, subject to standards for yard waste collection. Anything more often will require a special pickup and payment of the appropriate fee.
- (3) Placing garbage, yard waste, recycling or white goods in any city-owned alley is strictly prohibited.

(b) *Location for storage of garbage, yard waste or recycling containers.*

- (1) *Location generally.* Except on the day of trash pickup or the evening before pickup garbage, yard waste or recycling containers shall not be stored in yard areas adjacent to any city street or on city right-of-way.
- (2) *Location on double-frontage lots.* On those lots where both the front and back yards are adjacent to city streets, the occupant of such property shall provide a closed area for the storage of garbage, yard waste or recycling containers so that the same are not in view of residents of adjacent properties.
- (3) *[Placement prohibited.]* Placing garbage, yard waste, recycling or white goods on the street right-of-way immediately adjacent to and abutting a vacant lot is strictly prohibited. However, if the solid waste disposal system is notified in advance that several neighbors have formed a "community pile" of yard waste, which is placed on the city right-of-way in front of a vacant lot, and it can be determined by the director the pile was not generated from the vacant lot, it can be picked up. It is not necessary to contact the solid waste disposal system for each pickup once the precedent has been established. Vacant lot owners may contact the city for a special pickup of yard waste. If the director can determine the yard waste was not generated from the lot and has been dumped by a contractor or landscaper, the special pickup fee can be waived.



If the yard waste has been generated by the lot owner but is not excessive (eight-can rule), the director may charge one-half (½) the monthly residential fee based on normal yard waste pickup and payment of the appropriate fee.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-6. - Collection for residential service.

The city shall make provision for the collection and disposition of garbage yard waste, recyclables or white goods by the solid waste disposal system, or such other agency as it may designate, which collection and disposition shall be made at regular intervals. Such collection will only be made where garbage, yard waste, recyclables and white goods have been kept and collected as provided for in this chapter. Reasonable notice of the collection time shall be given the residents of the city. The solid waste disposal system shall only be required to collect such reasonable amount of garbage and yard waste as shall be accumulated within a reasonable time under normal conditions. Garbage or yard waste that does not comply with the standards below may require a special pickup service and the payment of the appropriate fee as defined in section 11-1, Special-pickup service. Customers will be advised of the reason for a special pickup service and fees. The solid waste disposal system must make reasonable efforts to contact the customer prior to pickup and charging of fees.

(1) Standards for garbage collection are as follows:

- a. Garbage must be in a residential container or tightly sealed plastic bag.
- b. Garbage shall not be placed in paper bags or cardboard boxes.
- c. Garbage shall not contain any recyclables, household hazardous waste, industrial waste or yard waste.

(2) Standards for yard waste collection are as follows:

- a. Loose items such as but not limited to palm boots, grass and leaves shall be placed in a residential container.
- b. Branches shall be cut into lengths of five (5) feet or less and shall be no bigger than five (5) inches in diameter, stacked with other yard waste.
- c. Palm fronds need to be neatly piled with all stems towards the street in a pile no larger than three (3) feet wide six (6) feet high and six (6) feet long, or tied in bundles no larger than one (1) man can handle.

(3) Standards for recycling collection are as follows:

- a. All metal cans and aluminum products (which shall have been emptied of all contents, liquid and solid, prior to placement for pickup).
- b. Glass products which do not include window glass, dishes, cookware, light bulbs or tubes (which shall have been emptied of all contents, liquid and solid, prior to placement for pickup).
- c. Newspapers (meaning all newspapers, newspaper advertisements, supplements, comics or enclosures which are considered recyclable by the city).
- d. All plastic soda, milk, water, dish soap, laundry soap, and other like containers that have a recyclable emblem on them (which shall have been emptied of all contents, liquid and solid, prior to placement for pickup).
- e. Magazines.
- f. Phonebooks.
- g. Cardboard (which shall have been emptied of all liners, bubble wrap and Styrofoam; waxed boxes are not to be recycled).
- h. Plastic Bags.
- i. Shredded paper (which shall be contained in a plastic bag and marked accordingly).

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08; Ord. No. 2015-15, § 1, 12-17-15)

Secs. 11-7—11-9. - Reserved.

**Editor's note**— Ord. No. 2008-03, § 1(Exh. A), adopted May 22, 2008, repealed §§ 11-7—11-9 in their entirety. Former §§ 11-7—11-9 pertained to containers—size, inspection, maintenance and replacement for commercial service; container—Location for commercial service; and collection for commercial service, respectively. See the Code Comparative Table for complete derivation.

Sec. 11-10. - Dumping.

- (a) It shall be unlawful for any person to dump, deposit, or bury any garbage, yard waste, industrial waste, hazardous waste or other noxious, malodorous or offensive matter on or in any public or private land, water body or right-of-way

with in the City of Flagler Beach. Furthermore, the burning of garbage, yard waste, industrial waste, hazardous waste or other material is governed by Chapter 9, Fire Prevention.

- (b) Placing household garbage, recyclables, yard waste, industrial waste or household hazardous waste in or around public or private use container shall be considered dumping.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

**Cross reference—** Offenses, Ch. 14.

#### Sec. 11-11. - Accumulation.

It shall be unlawful for any person to suffer or permit any garbage, yard waste, recycling, white goods or any wrecked, abandoned, non-operating or otherwise junk vehicle, or parts therefrom, or refuse, trash, filth, straw, hay, excelsior, paper, boxes, barrels or other articles, for which they are responsible, except as provided for in this chapter, or any other materials that are offensive to public health or that are a menace to the welfare of the city, either by reason of danger by fire or otherwise, to be or remain upon the premises of such person, or upon the streets, avenues or alleys and adjoining the premises of such person.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

#### Sec. 11-12. - Prohibited acts.

It shall be unlawful for any person to:

- (1) Place household hazardous waste in the city solid waste disposal system.
- (2) Dump any materials within the city limits.
- (3) Take garbage, recyclables, yard waste, industrial waste or household hazardous waste from any property and place it in or around any public or private use container located: on another private property, at the beach, in any city park, in any parking lot, or on any city right-of-way.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

#### Sec. 11-13. - Collection fees.

The solid waste collection fees shall be adopted by resolution of the city commission. In case of all buildings situated in all areas of the city, it shall be the ultimate responsibility and liability of the owner to pay the proper service fee.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-14. - Collection fees; lien on property.

All solid waste collection fees shall constitute, and are hereby imposed as, special assessment liens against the real property aforesaid; and, until fully paid and discharged, shall remain liens equally in rank and dignity with city ad valorem taxes, and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such special assessment liens for service charges shall be enforced by any of the methods provided for by law.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-15. - Annual review of collection fees.

There shall be an annual adjustment of the solid waste collection fees. Such adjustments shall be calculated by using the annual indexing factor based on the Public Service Commission published percentage change in the Gross Domestic Product Implicit Price Deflator. The resulting fee will become effective each October 1, starting October 1, 2007 and will be valid for the new fiscal year.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-16. - Disposition of revenues.

The revenues received under this chapter may be used by the city to:

- (1) Operate and maintain the solid waste disposal system;
- (2) Create reserves for replacement of its materials and equipment

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

Sec. 11-17. - Trash disposal.

- (a)

No person shall engage in the business of garbage or trash removal, without first having obtained such a license to conduct such activity, if such licensing is authorized by this section. Building or demolition contractor-haulers, as defined herein, are exempt from obtaining a license.

- (b) All collectors shall be required to obtain a license from the city and to pay a license fee as set forth in a resolution of the city commission, to collect, transport, and dispose solid waste and construction and demolition debris from roll-off containers within the city limits and shall be subject to the regulations contained in this section. Licenses shall be deemed to be non-exclusive and shall not be deemed to allow such collectors to collect, transport, and dispose solid waste from containers other than roll-off containers. Annually, or three hundred sixty-five (365) days from the date of the initial license granted by the city, each licensee shall renew its license, shall pay an annual permit fee as set by resolution of the city commission, and shall provide all information to the satisfaction of the city that the requirements of this section are, and have been, met.
- (c) Any license granted by the city shall be conditioned upon the licensee abiding by the terms of this section.
  - (1) *Hours of pick-up.* Collections for roll-off containers shall be made between 7:00 a.m. and 6:00 p.m., unless different times are approved by the city. On those days when the disposal site generally used by a licensee is closed for any reason, the licensee shall reschedule the collection of that day's routes within that week. When possible, the licensee shall provide to property owners in advance a list of approved holidays and the alternate pick-up days. In the event of an unforeseen event, the licensee shall notify property owners of the change in service as soon as possible.
  - (2) *Frequency of pick-up.* Licensees servicing roll-off containers shall make collections at all locations having roll-off containers. Property owners may be required to make a mandatory dumpster collection if deemed full by city staff.
  - (3) *[Records maintained.]* The city shall maintain records of the solid waste management services that are to be provided to the roll-off customers. Licensees shall provide the city with a written list including customer name, service address, container size and number, pick-up frequency, and special instructions.



- (4) *Vehicles.*
- a. The licensee shall keep vehicles used for collection services in serviceable repair, good appearance, and in a sanitary condition at all times. Each vehicle shall have clearly visible on each side, the name and phone number of the licensee and the vehicle number.
  - b. Licensee shall certify to the city upon the commencement of annual renewal of licenses that back-up vehicles are available in the event of the breakdown of any primary collection vehicle.
  - c. All front loading vehicles must be equipped with hopper doors to prevent material from blowing out of the area where material is placed into the vehicle.
  - d. All trucks or other vehicles used on the public streets and roads within the city shall conform to all current state motor vehicle requirements.
  - e. All solid waste hauled by the licensee shall be contained or enclosed so that leaking, spilling, or blowing are prevented. In the event of any leakage or spillage, the licensee shall immediately clean up all litter and as much leakage and spillage as reasonably possible.
  - f. The city reserves the right to deny a licensee's vehicles access to certain streets, alleys, and public rights-of-way, inside the city, where it is in the best interest of the general public to do so due to conditions of streets or bridges. The licensee shall not interrupt the regular schedule or quality of services because of such street closures.
- (5) *Littering prohibited.* The licensee shall not litter premises roads, streets or rights-of-way in the process of making collections and shall promptly remove all debris that may come out of the container during pick-up. The licensee shall collect all material that has been placed in the roll-off containers unless otherwise directed by the city.
- (6) *Roll-off containers.* Amounts and types of solid waste placed in roll-off containers for collection shall be stored in standard manufactured-type mechanically served roll-off containers only, unless otherwise approved, in advance, by the city and unless consistent with all other governmental regulation, and whose volume is listed in cubic yards or tons. Containers must be in good condition and cleaned, repaired, and painted. If requested

by the city, the licensee or the property owner shall replace old or damaged containers with newer ones. Such container shall be provided at licensee's or owner's cost and shall identify the licensee.

- (7) *Local contacts and communication.* Licensee shall establish and maintain an office or such other facilities through which it can be contacted. It shall be equipped with sufficient telephones, shall have one (1) qualified and responsible person in charge during collection hours, and shall be open during collection hours. A method to receive after-hour calls shall be utilized.
- (8) *Disposal.* All solid waste for disposal shall be hauled to sites or facilities legally empowered to accept it for treatment or disposal. The licensee is responsible for disposing of all collected waste collected from roll-off containers in the city in accordance with all state and federal statutes and regulations, and agrees to accept all liability for any remedial activities or fines which may arise from the unlawful disposal of same. The licensee shall be responsible for paying all disposal costs.
- (9) *Location of roll-off containers.* All solid waste shall be placed in approved roll-off containers at locations that are readily accessible to the licensee's personnel. If possible, all garbage and trash must be placed in roll-off containers on the private property and not within the right-of-way of any alley or street. The containers shall be accessible without entering a building or shelter of any type. The use of city property for the siting of roll-off containers may only be approved by the city after an appropriate application is filed and a separate right of way use agreement is entered.
- (10) *Licensee's personnel, employees, and officers.* The licensee shall:
  - a. Assign a qualified person or persons to be in charge of his/her operations in the city;
  - b. Ensure that employees maintain a disciplined manner while in the city;
  - c. Ensure that employees, at all times, carry a valid operator's license for the type of vehicle he/she is driving and that vehicle drivers do not unduly interfere with vehicular or pedestrian traffic, and that vehicles not be left standing on streets except as necessary by loading operations and shall move with the traffic flow;
  - d.

Attest unto the city that no officer, employee or agent of the city has any interest, either directly or indirectly, in the business of the licensee to be conducted under the license.

(11) *Operational approval; taxes; title to waste.*

- a. The licensee shall, at its sole expense, procure from all governmental authorities having jurisdiction over the operations of the licensee, including the city, all licenses, certificates, permits or other authorizations which may be necessary for the conduct of its operations.
- b. The licensee shall pay all taxes, licenses, certifications, permits and examination fees and excises which may be assessed, levied, exacted or imposed on its property, on its operations, on its gross receipts, and the rights and privileges granted herein, and shall make all applications, reports and returns required in connection therewith.
- c. Title to all waste shall be vested in the licensee upon placement in its vehicle.

(12) *Complaints.*

- a. The licensee shall establish complaint procedures and shall provide a copy of such procedures to the city.

(13) *Inspections.* The licensee shall provide the director of public works or designee with every reasonable opportunity to ascertain whether or not the work, as performed, is in accordance with the requirements of this section and license issued by the city.

(14) *Assignment.* No assignment of a license or any right occurring under a license shall be made in whole or in part by a licensee without the expressed written consent of the city and an issuance of a license to the assignee. In the event of any assignment, the assignee shall assume the liability of the licensee.

(15) *Liability; performance bonds.*

- a. Licensee agrees to purchase comprehensive public liability and property damage insurance in the amount of not less than one million dollars (\$1,000,000.00), per person injured, and two million dollars (\$2,000,000.00) for more than one (1) person injured, and property

damage liability insurance of not less than one million dollars (\$1,000,000.00). A copy of said policy of insurance shall be filed with the city clerk on or before the effective date of the license.

- b. All licensees shall be required to secure a performance bond in the amount of twenty-five thousand dollars (\$25,000.00) in favor of the city.
- c. In no event shall the city be liable or responsible to a licensee or to any other person on account of any stoppage or delay in the work provided for under a license issued under this section as a result of an injunction or any other legal or equitable proceeding brought against a licensee, or from or by or on account of any delay from any cause over which the city has no control.

(16) *Payment of license fees; sanitation enterprise fund.*

- a. All charges and rates for collection of solid waste in roll-off containers shall be set by the licensee with its customers.
- b. License, application, and annual permit fees shall be due and payable to the City of Flagler Beach as set by resolution of the commission as a representation of costs of the city in the administration of the ordinance from which this section derives and the regulation hereof. The city commission may set application fees which are commensurate with the cost to process applications for licenses issued under this section.
- c. All license fees collected by the city shall be paid into the sanitation enterprise fund. Such fund shall be used for the purpose of paying the cost of administering and regulating collectors of solid waste from roll-off containers in the city pursuant to this section.
- d. Accounting and reporting procedures shall be consistent with state law and reported to the city commission council by the city manager or designee annually.

(18) *Revocation or non-renewal of license.*

- a. Failure of a licensee to comply with this section may be grounds for revoking or renewing the license, after notice to the licensee and an opportunity to be heard by the city manager, whose decision may be appealed to the commission within thirty (30) days of the city manager's

written decision stating the reason(s) for revoking or refusal to renew. Such appeal shall be heard by the commission at the soonest available commission meeting.

- b. If a licensee becomes insolvent and in any event if a licensee files a petition of voluntary or involuntary bankruptcy, then the license shall automatically terminate in no event later than the date of the filing of the bankruptcy petition.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08; Ord. No. 2010-01, § 3, 4-8-10)

**Cross reference**— Business tax receipt, § 18-16 et seq.

#### Sec. 11-18. - Violations; penalties.

As set forth in F.S. § 162.21, and section 2-60.3 of the City Code, violations of this article are punishable by citation issued by a code enforcement officer or a law enforcement officer who has reasonable cause to believe the person has committed an act in violation of this Code. The following schedule of civil penalties is hereby set for citations issued:

First violation: Written warning

Second violation: \$50.00

Third violation: \$100.00

Subsequent violations: Fine not to exceed \$500.00.

Each day in violation of this article shall constitute a separate offense. Enforcement officials shall provide violators with no more than one (1) written warning. In addition to the civil sanctions contained herein, the city may take any other appropriate legal action, including, but not limited to, injunctive action to enforce the provisions of this article.

- (1) Any person cited with a violation of this section shall, within thirty (30) days of issuance of the citation:
  - a. Pay the civil penalty set forth in the above schedule, or
  - b. Contact City Hall, City of Flagler Beach, for instructions on how to schedule a court date to contest the citation in county court.

(2)



If the person cited pays the civil penalty as provided in subsection (1)a. of this section, he/she shall be deemed to have admitted the civil infraction and to have waived the right to a hearing to contest the citation.

- (3) If the person cited receives a court date as provided in subsection (1)b. of this section, he/she shall appear on said court date to contest the citation in the county court and he shall be deemed to have waived the right to the civil penalty set forth in the schedule of violations and shall be subject for each violation to the maximum civil penalty which shall not exceed five hundred dollars (\$500.00) plus any applicable court costs.
- (4) If the person cited fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he/she shall be deemed to have waived his right to contest the citation and judgment may be entered against the person for each violation for an amount up to the maximum civil penalty not to exceed five hundred dollars (\$500.00) plus any applicable court costs.

(Ord. No. 2008-03, § 1(Exh. A), 5-22-08)

**Cross reference—** Location of garbage, refuse, rubbish and trash containers, § 11-3.

# EXHIBIT B

## RESOLUTION 2017-35

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FOR WATER & SEWER, STORMWATER AND SANITATION FEE INCREASES TO PROVIDE REVENUES THAT WILL BE SUFFICIENT TO OPERATE FINANCIALLY SELF SUPPORTING UTILITIES; REPEALING RESOLUTION 2016-44; PROVIDING FOR CONFLICT; PROVIDING AN EFFECTIVE DATE HEREOF.

**WHEREAS**, Section 5.03.39 and 5.03.56 of the Land Development Regulations require the rate schedules for Water and Sewer Services be adopted by resolution.

**WHEREAS**, Chapter 11, Section 11-13 requires the fees for solid waste collection be adopted by resolution of the City Commission.

**WHEREAS**, Section 5.03.123 (8) of the Land Development Regulations directs the city to analyze the Stormwater Fund for the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility annually to ensure an equitable, adequate and stable utility rate and fee structure and to achieve a stable financial position for the utility.

**WHEREAS**, Section 5.03.126 of the Land Development Regulations set the initial fee for the Stormwater Rate at \$4.00 in budget year 2004/05.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, AS FOLLOWS:

**SECTION 1.** The Water and Sewer Base Fees should support the Capital Expenditures and Debt Service for the Utility Fund; the current rates are insufficient. The Water and Sewer Flows should support the operations of the Water and Wastewater Plants; the current rates are insufficient.

The Revenues that need to be generated for the operation and maintenance, replacement, capital expenditures and debt service of the Water and Sewer System for the budget years beginning October 1, 2017 and ending September 30, 2020 are as follows.

**The Fee Schedule for Solid Waste Collection Shall Be:**

**Residential Service**

Per single family residential unit \$19.80

Per single family residential unit with a Home Business Tax Receipt \$30.70

**Commercial Can Service**

Number of Cans (Cans must be less than 32-gallons in size and weigh less than 50 pounds)	Weekly Pickup	
	2	3
1 to 2	30.70	47.00
2 to 3	63.30	95.90

**Tote Service**

Number of Totes (65-gallons)	Weekly Pickup		
	2	3	4
1	30.70	47.00	63.30
2	63.30	95.90	128.49
3	95.90	144.79	193.68
4	128.49	193.68	258.88
5	161.09	242.61	324.07

**Commercial Container**

Container Sizes (Cubic Yards)	Weekly Pickup					Special Pickup Each
	2	3	4	5	6	
2	132.66	199.93	267.20	334.48	401.75	65.38
4	267.20	413.73	560.18	688.76	859.13	132.66
6	401.75	615.51	829.31	1,043.04	1,256.80	199.93
8	536.26	817.33	1,098.37	1,379.44	1,660.44	267.20

**Special Pickup Service**

The cost for a special pickup service for garbage or recycling shall be in accordance with the commercial container special pickup fee schedule.

The cost for a special pickup service for yard waste shall be \$160 for a full load and \$80 for a partial load, per pick up.