



Ordinance No. 2005- 54

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, **RE-ESTABLISHING TWO (2) MUNICIPAL SERVICE BENEFIT UNITS** IN THE UNINCORPORATED AREA OF COLLIER COUNTY FOR THE PURPOSE OF **PROVIDING AND REGULATING SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION** WITHIN THE BENEFIT UNITS; PROVIDING DEFINITIONS; PROVIDING FOR CREATION, PURPOSE, AND DECLARATION OF BENEFIT; PROVIDING FOR A **GOVERNING BODY**; PROVIDING POWERS; PROVIDING FOR BUDGET ADOPTION; ESTABLISHING A TRUST FUND; PROVIDING FOR PRIMA FACIE EVIDENCE OF ACCUMULATION OF SOLID WASTE; PROVIDING FOR AN **ANNUAL SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SPECIAL ASSESSMENT**; PROVIDING FOR **ANNUAL RATE RESOLUTION**; PROVIDING FOR CERTIFICATION OF RATE RESOLUTION; PROVIDING FOR A **SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SERVICE CHARGE PRIOR TO INITIATION OF ANNUAL SPECIAL ASSESSMENT**; PROVIDING FOR SCOPE OF SPECIAL ASSESSMENT, DELINQUENCY, AND LIENS; PROVIDING FOR PAYMENTS; PROVIDING FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING FOR FAILURE TO INCLUDE RESIDENTIAL REAL PROPERTY ON ANNUAL SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SPECIAL ASSESSMENT ROLL; PROVIDING FOR ENFORCEMENT OF DELINQUENT ANNUAL GARBAGE AND SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SPECIAL ASSESSMENTS; PROVIDING FOR MANDATORY SOLID WASTE COLLECTION; PROVIDING FOR OWNERSHIP OF SOLID WASTE AND PROGRAM RECYCLABLES; **PROVIDING FOR RESPONSIBILITIES OF CONTRACTOR AND CUSTOMER FOR SOLID WASTE COLLECTION**; PROVIDING FOR TERMINATION OF SERVICE BY CONTRACTOR; PROVIDING FOR **EXEMPTION PERMITS FOR COMMERCIAL AND RESIDENTIAL PROPERTY**; ESTABLISHING PROCEDURE FOR OBTAINING AND REVOKING EXEMPTION PERMITS; PROVIDING FOR FINANCIAL HARDSHIP DEFERMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, INCLUDING ORDINANCE 90-30; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR FILING WITH DEPARTMENT OF STATE AND AN EFFECTIVE DATE.

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WHEREAS, Article VIII, Section 1 of the Florida Constitution and Sections 125.01 and 125.66, Florida Statutes, grant to the Board of County Commissioners of Collier County, Florida, ("Board") all powers of local self-government to perform County functions and to render services for County purposes in a manner not inconsistent with general or special law, and such powers may be exercised by the enactment of County ordinances; and

WHEREAS, the Board finds that there is an **inordinate amount of littering of the public right-of-way of Collier County with solid waste generated within the County**, resulting in the necessity for more stringent regulation of solid waste collection and disposal practices within the County; and

WHEREAS, Sections 125.01(1) and 403.706, Florida Statutes, grant the Board the authority to regulate solid waste collection and disposal services within the County; and

WHEREAS, Chapter 403, Florida Statutes, grants the Board the authority to implement a comprehensive recycling program in the County; and

WHEREAS, the Board wishes to exercise its authority under Section 125.01(1), Florida Statutes, to **create two (2) municipal service benefit units for the collection, disposal, and administration of solid waste generated in the unincorporated areas of the County and to finance such operations with funds derived from special assessments, service charges, and fees within such units**, and

WHEREAS, in Harris v. Wilson, 693 So. 2d 945 (Fla. 1997), the Florida Supreme Court upheld a local government's use of a special assessment on residential property to finance a solid waste disposal facility; and

WHEREAS, the Board has determined that it is **necessary for the protection of the public health, safety and welfare of the residents of Collier County to provide for the financing of solid waste collection, disposal and administration services to residential and commercial properties within the unincorporated area of Collier County**, and to provide such services by **using private contractors in designated areas where the residential real property and commercial real property are located**; and

WHEREAS, it is necessary and desirable to provide for the levy of special assessments against residential real property within the benefit units, and to establish regulated commercial rates for commercial service, for the collection, disposal and administration of solid waste, based on the benefits provided by such services.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: DEFINITIONS.

A. For the purposes of this Ordinance, the definitions contained in this Section 1 shall apply unless otherwise specifically stated. When not inconsistent to the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word “shall” is always mandatory and not merely discretionary.

1. Assessment Roll: The list that identifies all of the taxable real property in Collier County, as described in Section 8 of this Ordinance.

2. Benefit Unit: Each of the two (2) municipal service benefit units established hereunder.

3. Biomedical Waste: Any solid or liquid waste which 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 which contain human disease-causing agents; and discarded sharps. The following are also included:

- (a) used absorbent materials saturated with blood, blood products, body fluids, or excretions or secretions contaminated with visible blood;
- (b) absorbent materials saturated with blood or blood products that have dried; and
- (c) non-absorbent, disposable devices that have been contaminated with blood, or body fluids or secretions or excretions visibly contaminated with blood, if the devices have not been treated by an approved method.

4. Biological Waste: Those wastes that cause or have the capability of causing disease or infection including, but not limited to, Biomedical Waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals. This term does not include human remains that are disposed of by Persons licensed under Chapter 470, Florida Statutes.

5. Board: The Board of County Commissioners of Collier County, Florida, or the Board’s designee.

6. Bulk Waste: Any large discarded household item that cannot be placed in a Curbside Container because of its size, volume, shape or weight. Bulk Waste includes, but is not limited to, sofas, tables, sinks, toilets, other fixtures, furniture, ladders, and carpet. Bulk Waste does not include White Goods, Electronic Equipment, or Extraordinary Waste.
7. Certificate of Occupancy: A document issued by the County certifying that a newly constructed building has been constructed in compliance with County specifications and is suitable for use.
8. Clerk: The Clerk of the Circuit Court of Collier County, Florida, acting as the Clerk of the Board, or the Clerk's designee.
9. Commercial Container: A dumpster, roll-off container, compactor, or other container, except a Roll Cart, that is approved by the Manager for the collection of Solid Waste or Recyclable Materials from commercial Customers.
10. Commercial Real Property: Real property that is located in a Benefit Unit and not classified as Residential Real Property. Commercial Real Property includes property used primarily for: (a) commercial purposes, such as hotels, motels, stores, restaurants, theaters, service stations, and recreational vehicle parks; (b) institutional purposes, such as governmental offices, churches, hospitals, and schools; and (c) not-for-profit organizations. Commercial Real Property shall not include commercially zoned property that is used primarily for residential purposes. Vacant land, not classified as Improved Real Property, shall be deemed Commercial Real Property.
11. Construction and Demolition (C&D) Debris: 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 wallboard, and lumber, resulting from the construction, destruction, or renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project.
12. Contractor: The Person(s) authorized by the County to collect and transport Solid Waste in a Service District pursuant to a Service Agreement.
13. Curbside: A location within three (3) feet of the curb, pavement, or edge of the nearest street. If this location is in a drainage ditch, Curbside shall mean a location adjacent to the Customer's driveway, as close as possible to the nearest roadway.

14. Curbside Container: (a) a metal or plastic container with a tight fitting lid, with two handles on the sides, with or without wheels, used for the collection of Garbage and Rubbish; (b) a Roll Cart; and (c) a plastic bag sufficient in strength for handling by the Contractor, provided the bag is closed and unbroken at the time of collection.

15. Customer: Any Person that uses a Contractor's services for the collection of Solid Waste, as provided by this Ordinance.

16. Department: The Collier County Solid Waste Management Department or the County department to which the Manager assigns the responsibility of administering this Ordinance.

17. Dwelling Unit: A room or rooms constituting a separate, independent establishment with cooking facilities/kitchen, a separate entrance, and bathroom facilities, and physically separated from any other rooms or Dwelling Units which may be in the same structure or in separate structures. A hotel or motel room is not a Dwelling Unit.

18. Electronic Equipment: Electronic devices that have been discarded, including, but not limited to, computers, monitors, televisions, cathode ray tubes, printers, scanners, fax machines, and telephones.

19. Exemption Permit: The County's authorization for a Person, other than a Contractor, to collect, transport and dispose of Solid Waste, as provided in Section 21 of this Ordinance.

20. Extraordinary Wastes: Wastes that require extraordinary management, including, but not limited to: abandoned automobiles; boats; tree trunks greater than four (4) feet in length, four (4) inches in diameter and fifty (50) pounds in weight; dead animals; agricultural and industrial wastes; Biomedical Waste; Biological Waste; Radioactive Waste; and Hazardous Waste.

21. Garbage: All kitchen and table food waste, and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

22. Hazardous Waste: 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 Waste includes any material or substance identified as a Hazardous Waste or hazardous substance in the Florida Administrative Code, Florida Statutes, or other applicable law.

23. Holiday: Independence Day, Thanksgiving Day, Christmas Day, and any other day so designated by the Board of County Commissioners.

24. Improved Real Property: Any cleared, graded or drained real property upon which a building or structure is erected and occupied or capable of being occupied (i.e., a County Certificate of Occupancy has been issued) for residential, commercial, institutional or industrial use. Improved Real Property includes but is not limited to recreational vehicle parking lots contained within parks designated as mobile home parks by the County Health Department.

25. Land Clearing Debris: The uprooted trees, bushes, vegetation, and other abandoned materials resulting from a land clearing operation.

26. Manager: The County Manager of Collier County, Florida, or the Manager's designee.

27. Multi-Family Residence: A group of three or more Dwelling Units within a single building, attached side-by-side or one above another, wherein each Dwelling Unit is individually owned or leased on land which is under common or single ownership.

28. Non-Collection Notice: A durable tag or sticker used to notify a Customer that the Customer's container or waste material has not been set out in compliance with the requirements of this Ordinance.

29. Non-Conforming Material: Any material that is set out for collection in a recycling container, but is not Recyclable Material.

30. Non-Program Recyclables: Recyclable Materials that are not Program Recyclables, but are segregated from other materials in the waste stream.

31. Person: Any and all persons, natural or artificial, including any individual, firm, partnership, joint venture, or other association, however organized; any municipal or private corporation organized or existing under the laws of the State of Florida or any other state; any county or municipality; and any governmental agency of any state or the federal government.

32. Program Recyclables: Recyclable Materials that have been designated by the Board for collection from residential and/or commercial Customers, and are segregated from other materials in the waste stream.

33. Radioactive Waste: 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.

34. Rate Resolution: A resolution adopted by the Board under the provisions of Section 9 of this Ordinance and Collier County Ordinance No. 84-31, establishing: (a) the annual Special Assessments to be imposed upon the owners of Residential Real Property in the Benefit Units for the forthcoming fiscal year (October 1 through September 30 of the following year); (b) the rates, fees and charges for the collection of Solid Waste by the Contractor(s) from Commercial Real Property; and (c) the rates, fees and charges for the disposal of Solid Waste at the County-authorized Solid Waste management facilities.

35. Recovered Materials: Metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered Materials as described above are not Solid Waste. Recovered Material does not include any material or substance that does not fit within one of the six categories described in this definition (metal, paper, glass, plastic, textile, or rubber).

36. Recyclable Materials: Materials which are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. This term encompasses Program Recyclables and Non-Program Recyclables.

37. Recycling Bin: An eighteen (18) gallon green bin or similar container that is approved by the Manager and used for the collection of Program Recyclables.

38. Recycling Cart: A heavy-duty plastic container that is mounted on two wheels, complies with the specifications established by the Manager, and is used for the collection of Recyclable Materials.

39. Residential Real Property: Improved Real Property that is located in a Benefit Unit and used for residential purposes, including, but not limited to: Dwelling Units; single family residences; duplex apartments; apartment buildings; recreational vehicle lots; mobile homes lots; condominium units; cooperatives established pursuant to Chapter 719, Florida Statutes; time-share apartments; leased residential premises of the classes described above, whether occupied or not; and premises occupied as a residence located in or upon

commercially zoned real property; provided, however, that where property is used exclusively as a recreational vehicle park, as defined in Section 513.01(10), Florida Statutes, such property shall be deemed Commercial Real Property.

40. Roll Cart: A heavy-duty plastic container that is mounted on two wheels, complies with the specifications established by the Manager, and is used for the collection of Garbage and Rubbish.

41. Rubbish: Waste materials, other than Garbage, resulting from normal housekeeping activities on Residential Real Property and Commercial Real Property. Rubbish includes but is not limited to discarded trash, paper, plastic, bottles, cans and similar materials.

42. Service Agreement: An agreement between the County and a Contractor providing an exclusive franchise for the collection of Solid Waste in a Service District.

43. Service District: The area served by a Contractor pursuant to a Service Agreement.

44. Service Year: Twelve (12) consecutive months, beginning on October 1 and ending on September 30 of the following year.

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

46. Solid Waste: Sludge unregulated under the federal Clean Water Act or Clean Air Act, Sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or Garbage, Rubbish, refuse, Special Waste, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. Solid Waste includes but is not limited to Biological Waste, Biomedical Waste, Bulk Waste, C&D Debris, Electronic Equipment, Garbage, Hazardous Waste, Land Clearing Debris, Radioactive Waste, Recyclable Materials (until they are recycled), Rubbish, Special Waste, Tires, White Goods and Yard Trash.

47. Special Assessment: The non-ad valorem assessment that is levied upon certain real property in unincorporated Collier County and used to provide funding for the County's Solid Waste management program.

48. Special Assessment Roll: The list that is prepared pursuant to Section 10 of this Ordinance and identifies the properties in the Benefit Units that are subject to the Special Assessments.

49. Special Waste: Solid Waste that can require special handling and management, including, but not limited to, White Goods, Tires, used oil, lead-acid batteries, C&D Debris, ash residue, Yard Trash, Biological Waste, Hazardous Waste, and Biomedical Waste.

50. Tires: Discarded automotive tires, including rims, but excluding tires that exceed 25 inches in diameter.

51. Trust Fund: The Solid Waste Special Assessment Trust Fund established by Section 6 of this Ordinance.

52. White Goods: Large discarded appliances, including but not limited to, refrigerators, ranges, washing machines, clothes dryers, water heaters, freezers, microwave ovens, and air conditioners.

53. Yard Trash: Vegetative matter resulting from landscaping maintenance, including, but not limited to shrub and tree trimmings, grass clippings, palm fronds, branches and stumps. However, such items shall not be considered Yard Trash if they are collected by a commercial landscape company or other Person that provides lawn and garden maintenance services for remuneration.

B. Pursuant to Section 403.7031, Florida Statutes, the definitions in this Section I are intended to be consistent with the definitions contained in Section 403.703, Florida Statutes.

SECTION TWO: CREATION, PURPOSE, AND DECLARATION OF BENEFIT.

By Ordinance No. 90-30, the County established two (2) municipal service benefit units pursuant to the authority granted in Chapter 125, Florida Statutes. The Benefit Units are hereby re-established. The Benefit Units shall be known as Service District No. I, and Service District No. II, respectively. Each Benefit Unit shall consist of a specific portion of the unincorporated area of Collier County. The two Benefit Units are described more particularly as follows:

MUNICIPAL SERVICE BENEFIT UNIT, SERVICE DISTRICT NO. I

Beginning at the intersection of the North line of Section 6, Township 48 South, Range 25 East also known as the Lee-Collier county line and the eastern shoreline of the Gulf of Mexico; thence easterly along said Lee-Collier county line to the northeast corner of Section 12, Township 48 South, Range 26 East; thence north along the east line of Range 26 East, Township 48 South to the northwest corner of Section 6, Township 48 South, Range 27 East, thence east along the north line of Sections 6, 5, 4, 3, 2 and 1 of Township 47 South, Range 27 East to the

northwest corner of Section 1, Township 48 South, Range 27 East; thence north along the range line of Ranges 27 and 28 East to the northwest corner of Section 30, Township 47 South, Range 28 East, also known as the center line of Immokalee Road (CR 846); thence east along the north section lines of Sections 30, 29, 28, 27, 26 and 25 of Township 47 South, Range 28 East to the northeast corner of Section 25, Township 47 South, Range 28 East; thence south along the range line for Ranges 28 and 29 East to the northeast corner of Township 49 South and Range 28 East; thence east along the township line for Townships 48 and 49 South to the northeast corner of Township 49 South and Range 30 East; thence south along the range line for Ranges 30 and 31 East to the northeast corner of Township 52 South and Range 30 East; thence east along the township line for Townships 51 and 52 South to the northeast corner of Township 52 South and Range 31 East; thence south along the range line for Ranges 31 and 32 East to the northeast corner of Township 53 South and Range 31 East; thence east along the township line of Townships 52 and 53 South to the northeast corner of Township 53 South and Range 34 East, also being known as the Collier-Miami-Dade county line; thence south along said county line to the southeast corner of Section 36, Township 53 South, Range 34 East, also being known as the Collier-Monroe county line; thence west along said county line to the eastern shoreline of the Gulf of Mexico; thence westerly and northerly along the waters of the Gulf of Mexico to the Lee-Collier county line being the north line of Section 6, Township 48 South, Range 25 East and being the Point of Beginning. Less and except all the lands located within the corporate limits of the City of Naples. Also, less and except all coastal barrier islands, as defined by Section 161.54(2), Florida Statutes, that are not accessible by bridges or causeways.

MUNICIPAL SERVICE BENEFIT UNIT, SERVICE DISTRICT NO. II

Beginning at the northwest corner of Township 47 South, Range 27 East, Collier County, Florida; thence east along the Collier-Lee county line also the township line to the northeast corner of Township 47 South, Range 27 East; thence north along the Collier-Lee county line also the range line to the northwest corner of Township 46 South, Range 28 East; thence east along the Collier-Hendry county line also the township line for Townships 45 and 46 South to the northeast corner of Township 46 South, Range 30 East; thence south along the Collier-Hendry county line also the range line of Ranges 30 and 31 East to the southeast corner of Township 48 South, Range 30 East; thence west along the township line for Townships 48 and 49 South to the southwest corner of Township 48 South, Range 29 East; thence north along range line for Ranges 28 and 29 East to the southwest corner of Section 19, Township 47 South, Range 29 East; also being known as the center line of Immokalee Road (CR 846); thence west along the south line of Sections 24, 23, 22, 21, 20 and 19 of Township 47 South, Range 28 East to the southeast corner of Section 24, Township 47 South, Range 27 East; thence south along the range line for Ranges 27 and 28 East to the southeast corner of Township 47 South, Range 27 East; thence west along the township line for Townships 47 and 48 South to the southwest corner of Township 47 South and Range 27 East; thence north along the range lines for Ranges 26 and 27 East to the northwest corner of Township 47 South, Range 27 East, being the Point of Beginning.

These two Benefit Units were created by Ordinance 90-30 and are hereby re-established, subject to the revised legal descriptions provided above, for the purpose of (a) protecting the health, safety and welfare of the residents of the County and (b) providing for the collection, disposal and administration of Solid Waste through the levy of the Special Assessments against Residential Real Property.

The Board finds that Commercial Real Property has varying needs for Solid Waste collection, disposal and administration services and, therefore, Commercial Real Property shall not be made the subject of the Special Assessments. However, in order to provide for the public health, safety and welfare within the Benefit Units, it is necessary to provide adequate Solid Waste collection, disposal and administration services to Commercial Real Property through the use of one or more Contractors. Accordingly, the Board shall provide for such Solid Waste services and shall annually regulate the rates, fees and charges assessed by the Contractor(s) for the services provided to Commercial Real Property.

The Board hereby declares and determines that: (a) the Solid Waste collection, disposal and administration services provided pursuant to this Ordinance shall and do constitute a benefit to all properties within the Benefit Units equal to or in excess of the cost of providing such Solid Waste services; (b) the Residential Real Property in the Service Districts receives a special benefit from the Solid Waste services that are provided to the Residential Real Property as a result of the Special Assessments; and (c) the Special Assessments are fairly and reasonably apportioned among the parcels of Residential Real Property that receive the special benefit.

SECTION THREE: GOVERNING BODY.

The Board shall be the governing body of the Benefit Units created by this Ordinance.

SECTION FOUR: POWERS.

The Board shall have all of the powers granted by general or special law for providing Solid Waste collection, disposal and administration services, including, without limiting the generality of the foregoing, the following:

A. To sue and be sued and plead and be impleaded, complain and defend in all courts in its own name.

B. To acquire for the purposes of the Benefit Unit(s), by grant, purchase, gift, devise, exchange or in any other lawful manner, all property, real or personal, or any estate or interest therein, upon such terms and conditions as the Board shall determine, and to own all such property in its own name.

C. To make contractual arrangements with any public, private or municipal firm, Person or corporation, for the furnishing of Solid Waste collection, disposal and administration services within the Benefit Units or for any matter proper for the effectuation of the purposes of the Benefit Units.

D. To make and adopt resolutions, rules and regulations governing the collection, disposal and administration of Solid Waste and Recyclable Materials within the Benefit Units for the purpose of providing the most economical means of Solid Waste collection, disposal and administration, and for the purpose of protecting the health, welfare and safety of the residents of the Benefit Units.

E. To borrow and expend money and issue bonds and revenue certificates and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law.

F. To levy and collect the Special Assessments within the Benefit Units.

G. To determine rates and collect service charges and fees within the Benefit Units.

SECTION FIVE: BUDGET ADOPTION.

The fiscal year of the Benefit Units shall commence on October 1 of each year and end on September 30 of the following year. Annually, the Board shall consider, amend and adopt a budget for each Benefit Unit as County budgets are considered and adopted.

SECTION SIX: TRUST FUND.

There is hereby established a Solid Waste Special Assessment Trust Fund, which will be divided into two (2) financial accounts, one (1) for each Benefit Unit. All Special Assessments and service charges and fees collected pursuant to this Ordinance for Solid Waste collection, disposal and administration services hereunder shall be deposited into the applicable financial account. The funds in each financial account in the Trust Fund are funds of the Board and will be part of the Board's annual budget. The funds on deposit in each financial account shall be used for no purposes other than Solid Waste collection, disposal and administration for each corresponding Benefit Unit and related costs incidental thereto, including, but not limited to, enforcement costs.

SECTION SEVEN: PRIMA FACIE EVIDENCE OF ACCUMULATION OF SOLID WASTE.

The fact that any Residential Real Property or Commercial Real Property within a Benefit Unit is capable of being occupied or has been issued a Certificate of Occupancy by the County shall be prima facie evidence that Solid Waste is being generated or accumulated upon such Residential Real Property or Commercial Real Property.

SECTION EIGHT: ANNUAL SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SPECIAL ASSESSMENT.

There is hereby imposed on all Residential Real Property within the Benefit Units an annual Special Assessment for the collection, disposal and administration of Solid Waste. The amount of the Special Assessment for Solid Waste collection, disposal and administration shall be the rate established in compliance with the procedure provided herein. Subsequent to the certification of the Assessment Roll, pursuant to Chapter 197, Florida Statutes, by the Property Appraiser, the Clerk, or the designee of the Board, the Board and the Tax Collector or other Board designee shall obtain a copy of the certified Assessment Roll from the Property Appraiser or the Clerk for all taxable properties in Collier County, as reflected in the records of the Property Appraiser. Thereafter, the Board shall cause to be prepared an independent file or roll which identifies those properties in the Benefit Units that are subject to the Special Assessment. The independent file or roll shall contain sufficient detail to permit ready identification of such Residential Real Property, consistent with the data contained on the Assessment Roll.

The annual Special Assessment may be imposed and collected as a non-ad valorem assessment pursuant to the procedure set forth in Section 197.3632, Florida Statutes.

SECTION NINE: ANNUAL RATE RESOLUTION.

On or before the first day of October, prior to each Service Year, or as soon thereafter as the Assessment Roll may be available or independent file or roll is completed and the amount of revenue necessary to fund the collection, disposal and administration of Solid Waste within the Benefit Units has been determined, the Board shall hold a public hearing to adopt a Rate Resolution in accordance with the provisions of this Ordinance and Collier County Ordinance No. 84-31, incorporating a schedule of the annual Special Assessments to be imposed upon the owners of all Residential Real Property in the Benefit Units. The annual Rate Resolution shall also establish rates, fees and charges for the services provided by the Contractor(s) to commercial Customers, as well as rates, fees and charges for disposal of Solid Waste at County facilities. The schedule for the Special Assessments shall provide sufficient revenues to fund the collection, disposal and administration of Solid Waste within the Benefit Units.

If the Board elects to use the non-ad valorem method of collecting the Special Assessments as part of the ad valorem tax bills, the procedures set forth in Section 197.3632, Florida Statutes, shall be followed for the adoption of rates, fees and charges.

SECTION TEN: CERTIFICATION OF RATE RESOLUTION.

Upon adoption by the Board of the Rate Resolution provided for in Section 9 of this Ordinance and County Ordinance No. 84-31, the Clerk shall forthwith deliver a certified copy of the Rate Resolution to the Tax Collector or other Board designee who will be responsible for collecting the Special Assessment. Based upon the Rate Resolution, the Tax Collector or other Board designee shall cause to be prepared an annual Special Assessment Roll. The Special Assessment Roll shall contain a description of those properties which are subject to the Special Assessment, the name and address of the owner of each parcel of Residential Real Property, and the amount of the Special Assessment applicable to each parcel of Residential Real Property. The description of each parcel of Residential Real Property shall be in sufficient detail as to permit ready identification of each parcel of Residential Real Property on the Assessment Roll.

SECTION ELEVEN: SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SERVICE CHARGE PRIOR TO INITIATION OF ANNUAL SPECIAL ASSESSMENT.

A Solid Waste collection, disposal and administration service charge shall be imposed against each owner of Residential Real Property at the time a Certificate of Occupancy is issued by the County. Until an annual Special Assessment is levied against such Residential Real Property in accordance with the procedures delineated herein, the amount of the service charge shall be a prorated share of the annual Special Assessment. The charge shall be paid at the time of issuance of a Certificate of Occupancy, and transferred into the Trust Fund.

SECTION TWELVE: SCOPE OF SPECIAL ASSESSMENT; DELINQUENCY; AND LIENS.

The Special Assessment shall be imposed against the owners of all Residential Real Property in the Benefit Units. Delinquencies in Special Assessment payments, liens, and collections thereof shall be administered and enforced in accordance with one of the following procedures:

A. In accordance with Chapter 197, Florida Statutes, and particularly Section 197.3632, Florida Statutes, providing for the imposition and collection of the Special Assessments as a non-ad valorem assessment on the property tax bills; or, in the alternative,

B. Pursuant to the authority of Chapter 173, Florida Statutes, in accordance with the following procedures:

The name of the owner and a description of each parcel of Residential Real Property shall be that designated on the Assessment Roll maintained by the Property Appraiser of Collier

County even though the Property Appraiser's Assessment Roll may not be current with regards to ownership, and from the Certificates of Occupancy issued by the County for those parcels of Residential Real Property that are not described on the Assessment Roll.

Except when the non-ad valorem method of collection is used pursuant to Section 197.3632, Florida Statutes, the Special Assessment shall be due by October 1 of the Service Year and shall be payable by a full lump sum payment within thirty (30) days of an original or corrective billing for such Service Year for which payment is required.

All delinquent Special Assessments billed and collected by the Tax Collector or other Board designee shall bear interest at the rate of twelve percent (12%) per annum. All Special Assessments imposed upon the owners of Residential Real Property under the provisions of this Ordinance, becoming due and payable on or after November 1, 1990 for the 1991 Service Year or October 1 for all Service Years thereafter or thirty (30) days after an original or corrective billing for such Service Year was mailed to the owner of any Residential Real Property that was not billed prior to commencement of such Service Year shall constitute and are hereby imposed as liens against such Residential Real Property as of the date the Special Assessment becomes delinquent. Said Special Assessments shall remain liens equal in rank and dignity with the lien of the County for ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the Residential Real Property involved.

If any Special Assessment lien becomes delinquent, the Board, upon receipt of the list of outstanding and delinquent Special Assessments from the Tax Collector or other Board designee under the provisions of Section 13 of this Ordinance, shall, by resolution, record a notice of delinquent liens containing the amount of the delinquent Special Assessment including all interest provided herein, a legal description of the Residential Real Property against which the lien is imposed and the name of the owner of such Residential Real Property as indicated on the Assessment Roll maintained by the Property Appraiser of Collier County, even though the Property Appraiser's Assessment Roll may not be current with regard to ownership. The notice of delinquent lien shall be recorded in the Public Records of Collier County, Florida, by the Board. Further, notice of the imposition of the lien on Residential Real Property pursuant to the Board's resolution shall be mailed by the Clerk or the Board's designee to each owner of such Residential Real Property at the owner's last known address. The notice shall contain the same information required in the resolution described herein imposing the lien. Upon payment by or on behalf of the owner and receipt of the list for paid or discharged lien or liens from the Clerk or

the Board's designee, the Board shall adopt a resolution indicating satisfaction of the lien or liens, which shall be recorded in the Public Records of Collier County, Florida, by the Board. Further, a notice of satisfaction of the lien or liens pursuant to the Board's resolution shall be mailed by the Clerk or the Board's designee to each owner of such Residential Real Property at the owner's last known address. The notice shall contain the same information required in the resolution described herein satisfying the lien; or, in the alternative,

C. In accordance with the provisions of any other law applicable to the administration and enforcement of delinquent special assessment payments, or liens and the collection thereof.

D. The owners of record of the Residential Real Property identified in Collier County Resolution No. 93-357 never received the 1991 special assessment bill or a reminder or a demand letter therefore, and said Residential Real Property had a lien imposed thereon pursuant to County Resolution No. 93-29, which was adopted by the Board on January 26, 1993. Notwithstanding any provision in this Ordinance to the contrary, the owners of such property shall be afforded the following remedy and procedure:

1. All interest accrued for each such parcel of Residential Real Property from the due date of payment of such 1991 Special Assessment through September 1, 1993 shall be accounted for and paid from the appropriate County fund, thereby reducing the outstanding (delinquent) interest due on such Residential Real Property accounts to zero as of September 1, 1993. The Department is authorized and shall effectuate a refund of interest paid to those owners of those parcels of Residential Real Property referenced in County Resolution 93-357 who have paid the then outstanding principal (special assessment amount) and interest subsequent to the lien being imposed pursuant to County Resolution No. 93-29 and prior to September 1, 1993.
2. On or before September 1, 1993, the Department sent by regular U.S. mail corrective invoices to the owners of record for those parcels of Residential Real Property identified in Resolution No. 93-357, such invoices providing billing for payment of the 1991 Service Year Special Assessment without interest, if paid on or before September 20, 1993. If payment was not made for such Residential Real Property by September 30, 1993, then interest on such unpaid invoice shall accrue at the rate of twelve percent (12%) per annum commencing October 1, 1993.

3. Full payment of the 1991 Service Year special assessment, as stated on the corrective invoice referenced in subparagraph 1 above, prior to October 1, 1993, shall result in the Residential Real Property account being considered paid in full, and a resolution indicating satisfaction of the lien created by County Resolution No. 93-29 shall be adopted by the Board and recorded in the Public Records of Collier County, Florida.

SECTION THIRTEEN: PAYMENTS.

Billing, receiving and accounting for the payment of the Special Assessment shall be the responsibility of (a) the Tax Collector of Collier County pursuant to the provisions of Chapter 197, Florida Statutes, and the agreement between the Board, the Tax Collector and the Property Appraiser, and other applicable provisions of law, or (b) the Board's other designee(s).

SECTION FOURTEEN: CORRECTION OF ERRORS AND OMISSIONS.

No act or error of omission or commission on the part of the Property Appraiser, Tax Collector, Board, Clerk, or their deputies or employees, or other Board designee(s) shall operate to defeat the duty to pay the Special Assessment imposed by the Board under the provisions of this Ordinance.

For the 1991 Service Year and all service years thereafter, the Manager shall be and is hereby authorized to confirm and correct invoice/billing errors and omissions caused on the part of the County materially affecting Residential Real Property Special Assessment payment requirements as otherwise provided in this Ordinance, by accounting for and paying from the appropriate County fund the interest erroneously applied to the Residential Real Property affected by the error or omission.

SECTION FIFTEEN: FAILURE TO INCLUDE RESIDENTIAL REAL PROPERTY ON ANNUAL SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SPECIAL ASSESSMENT ROLL.

If it appears that the Special Assessment might have been imposed under this Ordinance against any Residential Real Property, but such Residential Real Property was omitted from the appropriate Special Assessment Roll, the Board may, by resolution, impose the applicable Special Assessment for the Service Year in which the error is discovered, plus the applicable Special Assessment for the prior two (2) Service Years, if the Residential Real Property was subject to the Special Assessment for each of the prior two (2) Service Years. The total Special Assessment shall become delinquent if not fully paid upon the expiration of sixty (60) days from

the effective date of the Board's resolution, and upon becoming delinquent shall be subject to an interest rate of twelve percent (12%) per annum. Further, the total amount of the delinquent Special Assessment shall constitute, and is hereby imposed, as a lien against such Residential Real Property, and shall be treated the same as other Special Assessments.

SECTION SIXTEEN: ENFORCEMENT OF DELINQUENT ANNUAL GARBAGE AND SOLID WASTE COLLECTION, DISPOSAL AND ADMINISTRATION SPECIAL ASSESSMENTS.

All delinquent Special Assessment liens may be enforced at any time by the Board subsequent to the date the Special Assessment or service charge becomes delinquent, except as otherwise provided herein, in the amount due under the liens or any recorded liens, including all interest, plus costs and a reasonable attorney's fee, by proceeding in the appropriate court to foreclose such liens in the manner in which a mortgage lien is foreclosed under Florida law or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Chapter 173, Florida Statutes, or the collection of payment thereof may be accomplished by any other method authorized by law. It shall be lawful to join in any complaint for foreclosure or any such legal proceedings, any lots or parcels of land that are the subject of a lien or liens.

The Clerk or the Board's designee is authorized and directed to execute and deliver, upon request, a written certification certifying the amount due for delinquent assessments or unrecorded liens for any parcel of Residential Real Property. In the alternative, the Clerk or the Board's designee shall certify that no such Special Assessments are due, except current and non-delinquent Special Assessments. The certificates shall be binding upon the County.

SECTION SEVENTEEN: MANDATORY SOLID WASTE COLLECTION.

Unless exempt from the provisions of this Ordinance or burned under a valid permit, all Solid Waste generated and accumulated by a Person on Residential Real Property or Commercial Real Property within a Benefit Unit shall be collected, conveyed, and transported to an approved County facility by the designated Contractor. Each Person that owns or occupies Residential Real Property or Commercial Real Property in the Service District shall be serviced by the Contractor, except as provided in Section 21 of this Ordinance.

The owner(s) of Commercial Real Property shall provide a copy of their service contract with a Contractor, or an Exemption Permit issued pursuant to the provisions of Section 21 of this Ordinance, for such property to obtain a Certificate of Occupancy from the County Community Development and Environmental Service Department for such property.

Inadvertent or mistaken issuance of a Certificate of Occupancy shall not relieve any Person from compliance with these provisions.

SECTION EIGHTEEN: OWNERSHIP OF SOLID WASTE AND PROGRAM RECYCLABLES.

From the time that Solid Waste and Program Recyclables are placed at the Curbside or other authorized location for collection by the County or the Contractor, such materials shall be the sole property of the County. No Person shall have the right to take, keep, process, alter, remove or otherwise sell or dispose of such materials, without the prior written approval of the Manager.

SECTION NINETEEN: RESPONSIBILITIES OF CONTRACTOR AND CUSTOMER FOR SOLID WASTE COLLECTION.

The Contractor shall collect Solid Waste from Residential Real Property and Commercial Real Property, and Customers shall set out their Solid Waste for collection by the Contractor, as follows:

A. All collection services provided by the Contractor under the terms of this Ordinance shall be performed in a professional manner in compliance with the Service Agreement and all applicable local, state and federal laws. Any litter or spillage caused by the Contractor shall be removed immediately by the Contractor.

B. Collection service shall be provided by the Contractor on Monday through Saturday, except Holidays. The Contractor shall not be required to provide collection service on Holidays or during a local emergency, as declared by the Board. Should a Holiday occur on the date designated as a Customer's collection day, the collection for that Customer shall take place no later than the next regular collection day for the Customer.

C. Residential Real Property:

1. Except as otherwise provided herein or in the Service Agreement, the Contractor shall collect, remove and dispose of the Solid Waste set out for collection by residential Customers. At a minimum, Residential Real Property in the Benefit Units shall be provided collection service at Curbside for the following materials, subject to the provisions of the Service Agreement: (a) Garbage and Rubbish; (b) Yard Trash; (c) Program Recyclables; (d) Bulk Waste; (e) White Goods; (f) Tires; and (g) Electronic Equipment.

2. Except as otherwise provided herein, residential Customers shall use Curbside Containers for the collection of Garbage, Rubbish, and Yard Trash. Residential Customers may use heavy-duty plastic bags for excess Garbage or Rubbish.
3. Curbside Containers are subject to the Manager's approval and shall: (a) be constructed so as to prevent intrusion by water and animals, and the expulsion of their contents; (b) have a cover that is free from sharp edges; and (c) not have inside structures that prevent the free discharge of the container's contents. Curbside Containers, except Roll Carts, shall not exceed thirty-two (32) gallons in capacity or fifty (50) pounds in weight when filled.
4. Program Recyclables shall be set out for collection in a Recycling Cart or Recycling Bin. Cardboard placed in a Recycling Cart or Recycling Bin shall be flattened and, if necessary, cut to a maximum size of 3 ft. x 3 ft. Cardboard may also be stacked and placed outside the Recycling Cart or Recycling Bin.
5. Discarded materials from small household repairs, renovations or projects shall be placed in a Roll Cart. No other C&D Debris shall be placed at the Curbside. C&D Debris generated on Residential Real Property by a licensed builder or contractor shall be removed by the builder or contractor.
6. Curbside Containers, Recycling Carts, Recycling Bins, and any non-containerized waste appropriate for Curbside collection shall be placed at the Curbside prior to 6:00 a.m. on the scheduled collection day. However, these containers and materials shall not be placed at Curbside more than twenty-four (24) hours prior to the Customer's next regularly scheduled collection day. Such containers and materials shall be placed at least four (4) feet from mailboxes or other obstacles. The Customer shall remove from the Curbside all Curbside Containers, Recycling Carts and Recycling Bins within twenty-four (24) hours after the Customer's Solid Waste has been collected.
7. A residential Customer shall not set out for collection more than four (4) Tires and two (2) lead acid batteries per month.
8. A residential Customer shall contact the Manager at least forty-eight (48) hours before the Customer's regularly scheduled collection day if the Customer wishes to receive Curbside collection of Bulk Waste, White Goods, Electronic Equipment, Tires, or lead acid batteries.
9. Garbage and similar putrescible waste shall not be collected, stored, or set out in an open, uncovered Collection Container.

10. Solid Waste and Yard Trash shall not be placed in the same Curbside Container.

11. Yard Trash shall not be placed in Roll Carts. Yard Trash placed in other types of Curbside Containers shall not exceed four (4) feet in length or fifty (50) pounds in weight, and shall not extend more than twelve (12) inches over the top of the Curbside Container. Yard Trash shall not be set out for collection in plastic bags. Yard Trash may be set out for collection in paper bags.

12. Yard Trash that is not placed in a Curbside Container shall be bundled and securely tied with a cord or other material strong enough to support the weight of the bundle. Non-containerized Yard Trash shall not exceed fifty (50) pounds in weight, four (4) feet in length, or four (4) inches in diameter. The foregoing restrictions also shall apply to other types of non-containerized Solid Waste, except Bulk Waste and Extraordinary Waste.

13. Customers shall not overfill Roll Carts, Recycling Carts, or Commercial Containers such that lids cannot be securely closed.

14. The Contractor shall provide for the collection of Bulk Waste, White Goods, and Electronic Equipment, subject to the provisions of this Ordinance and the Service Agreement. Such materials shall be placed at Curbside and shall not include vehicles, vehicle component parts, boats or boat trailers or their component parts, or liquid waste. Further, Bulk Waste shall be disassembled, if possible, prior to pickup by the Contractor. Prior to placement at the Curbside, doors on White Goods shall be taken off the discarded units to prevent the entrapment of children.

15. Owners of Residential Real Property may negotiate separate arrangements with the Contractor for services additional to those established herein and in the Service Agreement. The County shall not be responsible for the administration of or payment for any such arrangements.

D. Ingress and Egress to Residential Real Property: Subject to the conditions contained herein, ingress and egress to Residential Real Property on private roads must be provided by the affected property owners for the Contractor. Ingress and egress includes but is not limited to maintaining suitable conditions and widths on the roads, providing adequate room for vehicles to turn around, and managing overhanging tree limbs. If part or all of a private road is inaccessible by the Contractor, the County shall investigate and provide suggestions to the appropriate Home Owner's Association (HOA) or property owners if there is no HOA. If the

HOA or affected property owners do not agree to provide access for the Contractor, the Customer's Curbside Containers shall be placed on the closest public right-of-way that is accessible to the authorized Contractor, at a location designated by the Manager that will not obstruct motor vehicle traffic, pedestrian passage, or stormwater drainage.

E. Commercial Real Property:

1. Except as authorized by Section 403.7046, Florida Statutes, the provisions of this Ordinance do not apply to the collection of Recovered Materials that are generated on Commercial Real Property.

2. Except as otherwise provided herein, owners of Commercial Real Property shall enter into a contract with a Contractor and shall pay the County's approved rates for the collection of those types of Solid Waste that are subject to the Contractor's exclusive franchise.

3. The minimum collection frequency for Commercial Real Property shall be one time per week, with collection not more than seven (7) calendar days apart, except for Holidays. The minimum collection frequency for restaurants, grocery stores and other facilities that generate significant quantities of Garbage and other types of putrescible waste shall be twice per week.

4. Collection service for Commercial Real Property shall be provided with a Commercial Container; however, a commercial Customer that generates one (1) cubic yard or less per week of Solid Waste may use Curbside Containers.

F. Multi-Family Collection Service:

1. Customers occupying Multi-Family Residences shall receive residential collection service or commercial collection service. A Customer occupying a Multi-Family Residence shall receive residential collection service if the Customer pays the County's Special Assessment or receives the Manager's approval for such service. All other Customers occupying Multi-Family Residences shall receive commercial collection service.

2. A Customer occupying a Multi-Family Residence and receiving residential collection service shall receive the same level of service, and shall be subject to the same rates and requirements, as any other Customer receiving residential collection service.

3. A Customer occupying a Multi-Family Residence and receiving commercial collection service shall receive the same level of service, and shall be subject to the same rates and requirements, as any other Customer receiving commercial collection service.

4. Each Customer occupying a Multi-Family Residence shall receive collection service for Recyclable Materials, unless the site development plan for such Multi-Family Residence provides for commercial collection service.

G. Non-Collection Procedures:

1. The Contractor is not required to collect Solid Waste, Program Recyclables, or other materials unless such materials have been set out for collection by a Customer in accordance with the provisions of this Ordinance and the Service Agreement. If such materials are not collected, the Contractor shall immediately place a Non-Collection Notice on the container or Non-Conforming Material. If the Contractor does not place a Non-Collection Notice on the container or Non-Conforming Material, the Manager may require the Contractor to return promptly and collect the materials.

2. The Contractor may leave Non-Conforming Material, Non-Program Recyclables, and excessively contaminated recyclables in the Customer's Recycling Cart or Recycling Bin. If the Contractor does, the Contractor shall immediately place a Non-Collection Notice explaining why the material was not collected.

3. In the event a Commercial Container is overfilled and cannot be safely dumped, the Contractor shall immediately place a Non-Collection Notice on the Commercial Container, notify the Customer, and reschedule service.

4. The Contractor shall refuse to collect Solid Waste from a Customer if the Contractor believes that the Solid Waste contains Hazardous, Radioactive, Biological or Biomedical Waste. If the Contractor believes a Customer is depositing such waste for collection, the Contractor shall place a Non-Collection Notice on the container, take photographs of the improper waste (if possible), and immediately notify the Manager. If the generator of such waste is unknown, the Contractor shall work with the Manager to identify the generator of such waste.

SECTION TWENTY: TERMINATION OF SERVICE BY CONTRACTOR.

A. Residential Real Property: The Contractor may not terminate service to any Residential Real Property that is subject to and not exempted from the Special Assessment.

B. Commercial Real Property: The Contractor may terminate collection service when a commercial Customer fails to pay for service and the following procedure has been followed:

1. When a commercial Customer's payment is thirty (30) days past due, the Contractor may mail to such Commercial Customer a notice of intent to terminate service in ten (10) days.

2. If the commercial Customer desires to dispute the bill, the Customer shall notify the Manager in writing within the ten (10) day period. Upon receipt of the Customer's notice, the Manager shall resolve the dispute.
3. If the balance remains unpaid after the ten (10) day period provided above, or ten (10) days following issuance of a written finding by the Manager, the Contractor may discontinue collection service to the Customer. The Contractor shall notify the Manager within one (1) day after service is terminated.
4. Upon being notified, the County shall take whatever action it deems appropriate to enforce compliance with the provisions of the County's Ordinances, including, but not limited to issuance of a citation.

C. In the event service is terminated, the Contractor is authorized to remove from the Customer's premises any Commercial Containers or other equipment belonging to the Contractor.

D. The Contractor is authorized to charge interest on delinquent accounts with commercial Customers, based on the highest rate authorized by law, and to charge a fee for resumption of service.

SECTION TWENTY-ONE: EXEMPTION PERMITS FOR COMMERCIAL AND RESIDENTIAL PROPERTY; PROCEDURE FOR OBTAINING AND REVOKING EXEMPTION PERMITS.

A. Commercial Real Property: Any owner or occupier of Commercial Real Property desiring to remove Solid Waste generated on its own premises may make application to the Manager for an Exemption Permit to remove and convey the Solid Waste to designated County facilities. Such application shall be on a form as prescribed by the Manager. Applications shall be accompanied by a filing fee in an amount determined by resolution of the Board. The application shall, in addition to other items which may be specified by the Manager, contain at least the following information:

1. Name of applicant.
2. Telephone number of applicant.
3. Facsimile number of applicant.
4. Description of activity generating the Solid Waste.
5. Description of the type of Solid Waste generated and address of premises where such Solid Waste is generated.

6. The proposed County landfill site where the Solid Waste will be disposed.
7. The vehicle(s) and personnel that will be utilized to transport such Solid Waste.
8. Address where vehicle(s) is parked and can be inspected.
9. A copy of the registration of the vehicle(s).
10. Proof of insurance for the vehicle(s).
11. Information sufficient to establish that the equipment to be used is constructed or equipped in a manner such that no leakage, spillage or loss of any fraction of the load can occur.
12. A copy of the applicant's occupational license.

Upon determining that the activity for which the Exemption Permit is sought complies with the terms of the Ordinance, the Service Agreement, and all County, State and Federal laws and regulations, the Manager may grant an Exemption Permit. The Exemption Permit shall contain a certificate to be signed by the applicant, certifying that the applicant will comply with the provisions of this Ordinance.

The Exemption Permit shall specify the County facility(ies) to which the Solid Waste shall be conveyed and shall include any other conditions the Manager deems appropriate. All Solid Waste being transported pursuant to an Exemption Permit must be transported in a covered or enclosed vehicle or must be securely covered by a tarpaulin or other device that prevents the material from falling, blowing or otherwise escaping the vehicle. Vehicles used to transport Solid Waste pursuant to this Section 21 shall have properly functioning safety equipment, including, but not limited to, head lights, tail lights, hazard lights, windshields, windshield wipers, mirrors and horns. The Person receiving the Exemption Permit shall timely pay any amounts due and owing for the use of the County facility(ies) at which the Solid Waste is disposed. Failure to make timely payments to the County for disposal services may result in the revocation of the Exemption Permit.

The Exemption Permit shall be effective for a period of six (6) months from the granting thereof and may be renewed by filing an updated application and following the procedures for the granting of the original Exemption Permit.

Upon receipt of notice of a violation of the terms of any Exemption Permit, including the application therefore, the Manager may revoke such Exemption Permit, after providing notice and a hearing. An appeal from any decision of the Manager denying or revoking an Exemption

Permit may be taken to the Board. An appeal shall be initiated by filing with the Manager a petition stating the grounds for such appeal. The petition must be filed with the Manager within ten (10) days after the County mails notice of the permit denial or revocation by the Manager.

B. Residential Real Property: Exemption Permits shall not be issued for Residential Real Property generally, but may be issued upon the following basis and criteria:

1. The Residential Real Property for which exemption from the Special Assessment is sought must:
 - a. be essentially surrounded by Commercial Real Property;
 - b. provide written confirmation that its Solid Waste shall be collected and disposed of by the owners of the adjacent Commercial Real Property; and
 - c. be part of a condominium owners' or homeowners' association of record whose residential units are receiving commercial collection service with a Commercial Container, rather than the residential collection service described in Section 19 of this Ordinance. The owners of the affected Residential Real Property, if so electing through their respective condominium owners' or homeowners' association, shall file an exemption application identifying the Residential Real Property and providing other relevant information as required on the form provided by the Manager. An exemption granted pursuant to this provision shall mandate the subject Residential Real Property to obtain and receive commercial service through its respective condominium owners' or homeowners' association, by contract with the Contractor for the appropriate commercial service, at the rate provided by the Contractor pursuant to this Ordinance and the Service Agreement.
2. The Contractor providing service in the affected Solid Waste District shall affirm in writing to the Manager that it is impractical or economically inefficient for the Contractor to provide residential collection service to the Residential Real Property for which exemption is sought.
3. Application for Exemption Permit shall be made in writing by the Residential Real Property owner, or on behalf of the Residential Real Property owners of such condominium owners' or homeowners' association by such

condominium owners' or homeowners' association, and shall be submitted with an administrative processing fee in an amount determined by the Board. The application shall be submitted to the Manager within thirty (30) days of the mailing date of the Special Assessment bill. The Manager may request and shall be entitled to receive relevant documentation or confirmation of facts from the applicant and shall, in any event, render a written decision either granting or denying the exemption request within thirty (30) days of its submission.

4. An appeal from a decision of the Manager denying or revoking a residential Exemption Permit may be taken to the Board by the Residential Real Property owner so aggrieved by filing with the Manager a petition stating the grounds for the appeal. The petition must be filed with the Manager within ten (10) days after the Manager mails the notice of denial.
5. After the expiration of the periods of limitation established in subparagraphs 3 and 4 of this subsection 21B, as applicable, no petition, appeal or right of action shall be asserted by the Residential Real Property owner.
6. A Residential Real Property exemption granted hereunder shall be formalized by resolution adopted by the Board and communicated to the Tax Collector and/or other Board designee.
7. The residential Exemption Permits granted hereunder shall have duration of up to and no more than one (1) Service Year, whereupon the Residential Real Property shall be subject to the Special Assessment and Contractor's services unless a new residential Exemption Permit is obtained pursuant to the procedures described in this Section 21 of the Ordinance.

SECTION TWENTY-TWO: FINANCIAL HARDSHIP DEFERMENTS.

Except where the Special Assessment is imposed and collected as a non-ad valorem assessment on the property tax bill, a deferment of the annual payment obligation of the Special Assessment may be obtained by the owner of Residential Real Property that qualifies upon the basis of financial hardship as defined herein and according to the procedures provided hereunder.

A deferment of the payment obligation otherwise required under this Ordinance may be granted upon the written request of a Residential Real Property owner who qualifies because of financial hardship using as a standard the United States Department of Housing and Urban

Development's Rental Assistance Program (Section 8) as to annual income, providing further that home ownership is not in and of itself an eliminating factor. The deferment shall consist of a lien placed against the Residential Real Property to run with the land in an amount equal to the cumulative unpaid Special Assessment(s). The lien shall be satisfied upon the sale, transfer or any other disposition of the Residential Real Property subject to the Special Assessment(s).

A. Application for financial hardship deferment shall be submitted to the Manager. The Manager shall render a written determination upon such application within thirty (30) days of its submittal.

B. A Residential Real Property owner who has applied for a financial hardship deferment and has been denied such deferment by the Manager may petition the Financial Hardship Review Committee, which is established hereby and composed of the County Public Utilities Administrator, the County Housing and Urban Improvement Director, and the Manager. The written application shall be tendered to the Financial Hardship Review Committee (c/o the Collier County Public Utilities Administrator's office) within thirty (30) days of the date of denial by the Manager. After the expiration of this period of limitation, no petition, appeal or right of action shall be asserted by the Residential Real Property owner.

C. A review of the decisions of the Financial Hardship Review Committee may be heard by the Board upon application by any Person seeking such a review. The written application shall be tendered to the Manager within thirty (30) days of the date of the decision of the Financial Hardship Review Committee. After the expiration of this period of limitation, no petition, appeal or right of action shall be asserted by the Residential Real Property owner.

D. A deferment granted by the Manager or by the Financial Hardship Review Committee or the Board shall be formalized by resolution adopted by the Board and recorded in the Public Records of Collier County, Florida by the Board.

E. All financial hardship deferments shall be subject to reevaluation by the Manager every third Service Year following the grant of deferment or the previous reevaluation.

F. All financial hardship deferments shall accrue interest on the unpaid principal at the rate of twelve percent (12%) per annum, unless the interest is waived by the Board based on information provided to the Board on a case-by-case basis.

SECTION TWENTY-THREE: SEVERABILITY.

If any portion of this Ordinance is declared invalid, illegal, void or unenforceable by a court of competent jurisdiction, such portion shall be considered severable, and the remaining portions shall not be affected, but will remain in full force and effect. This Ordinance shall be construed as if such invalid, illegal, void or unenforceable provision had never been contained herein.

SECTION TWENTY-FOUR: PENALTIES.

Violations of this Ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction shall be punished by fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail not to exceed sixty (60) days or by both fine and imprisonment. Each day of continued violation shall be considered a separate and distinct offense. The Board shall have the power to collaterally enforce the provisions of this Ordinance through its code enforcement inspectors and/or code enforcement boards or by appropriate judicial writ or proceeding notwithstanding any prosecution in the same manner as a misdemeanor.

SECTION TWENTY-FIVE: REPEAL OF CONFLICTING ORDINANCES.

The provisions of any other Collier County Ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict. The Board hereby expressly repeals Ordinance 90-30, as amended.

SECTION TWENTY-SIX: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION TWENTY-SEVEN: FILING WITH THE DEPARTMENT OF STATE AND EFFECTIVE DATE.

A. The Clerk is hereby directed to transmit a certified copy of this Ordinance to the Bureau of Administrative Code, Department of State, 500 South Bronough Street, Tallahassee, Florida 32399.

B. This Ordinance shall take effect upon filing with the Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier

County, Florida, this ___ day of _____, 2005.

ATTEST:
DWIGHT E. BROCK, Clerk

By: *[Signature]*
Attest as to Chairman's
signature only

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

By: *[Signature]*
FRED W. COYLE, Chairman

Approved as to form and legal sufficiency

[Signature]
County Attorney

This ordinance filed with the
Secretary of State's Office the
19th day of October, 2005
and acknowledgement of that
filing received this 28th day
of October 2005

By: *[Signature]*
Deputy Clerk

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 2005-54

Which was adopted by the Board of County Commissioners on the 11th day of October 2005, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 13th day of October 2005.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Heidi R. Rockhold, DC
By: Heidi R. Rockhold,
Deputy Clerk