

ORDINANCE 01-2023

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING ARTICLES I, II, III AND V OF CHAPTER 24, OF THE TOWN'S CODE OF ORDINANCES PERTAINING TO SOLID WASTE; PROVIDING FOR AMENDMENTS TO THE GENERAL TEXT AND AMENDMENTS TO CERTAIN PROCEDURES AND POLICIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapters 163, Florida Statutes; and

WHEREAS, the Town operates a Sanitation Utility (the Utility) that provides solid waste collection and disposal services within the Town; and

WHEREAS, the operation of the Utility furthers the health and welfare of Town residents, visitors, and businesses; and

WHEREAS, there is a need to amend certain definitions and clarify certain language pertaining to the Utility's operations, and associated policies and procedures

WHEREAS, the Town Commission has determined that amending Articles I, II, III and V of Chapter 24, *Solid Waste*, will further the public's health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The foregoing recitals are hereby incorporated herein as true and correct.

Section 2. CHAPTER 24, of the Code of Ordinances, entitled "SOLID WASTE", is hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

The definitions located in F.S. § 403.703 shall apply to this chapter. In addition, 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:

Bulky waste means large, noncontainerized, discarded items placed for disposal such as large boxes, barrels, crates, large furniture and large appliances, but not including yard and garden trash items, as defined in this section.

Commercial property means any property utilized for commercial, governmental, agricultural, and industrial purposes or single-family and/or multifamily units or grouping of five or more units maintained as residential rental properties or units. Commercial single-family and/or multifamily units or grouping of five or more units shall be billed in accordance with approved commercial sanitation rates. Commercial properties are typically serviced through the use of dumpsters or compactors.

Commercial trash means any and all accumulations of paper rags, excelsior, wood, paper or cardboard boxes or containers, sweepings, furniture, appliances and any other accumulation not included under the definition of garbage, generated by the operation of Commercial Properties, i.e.: stores, offices, public buildings, residential rental properties and other business places. The term "commercial trash" shall also include all trash placed in public receptacles in public places for collection.

Compactor means a metal container (dumpster or roll-off box) that contains a packing mechanism and an internal or external power unit.

Containerized household trash means any and all accumulations of waste material generated in and about the home, other than garbage, and which can be stored for collection in an approved refuse container, e.g., food packaging, small appliances, small toys, dishes, etc.

Containerized light yard trash means any and all accumulations of bagged waste vegetation which is placed for collection, or any and all accumulations of waste vegetation arranged in a single pile for collection in a volume not exceeding ten cubic yards (18' Long x 4' Wide x 4' High), other than grass clippings.

Dumpster means a metal container of not less than two cubic yards or larger than eight cubic yards, made of watertight construction with doors opening on top, and constructed so that it can be emptied mechanically by specially equipped trucks.

Garbage means any and all accumulations of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of, meats, fish, fowl, fruit, vegetables and any other matter, of any nature whatsoever which is subject to decay, putrefaction and the generation of noxious and offensive gases or odors or which, during and after decay, may serve as breeding or feeding material for flies or other germ carrying insects; bottles, cans or other food containers which, due to their ability to retain water, may serve as a breeding place for mosquitoes or other water-breeding insects.

Heavy yard trash means any and all accumulations of waste vegetation having a diameter of more than four inches or which is loosely piled for collection in a quantity of more than ten cubic yards, other than grass clippings. The term "heavy yard trash" shall also include any and all accumulations of soil and/or sod piled for collection.

Industrial waste means any and all debris and waste products generated by canning, manufacturing, food processing (except restaurants), land clearing, building construction or alteration (except minor household repair projects performed by the owner or occupant), and public works type construction projects whether performed by a governmental unit or by contract.

Loading and unloading area means any designated loading or unloading space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons.

Minor household repairs mean minor residential household repairs for which no permit is required under the technical codes and which are done exclusively by an occupant of the residence.

Multifamily residential unit means any building containing more than one dwelling unit.

Noncontainerized household trash (see also Bulky waste) means any and all accumulations of waste material generated in and about the home, other than garbage, which cannot be stored for collection in an approved refuse container due to its larger size; e.g., furniture, large toys, lawn mowers, etc.

Parking lots means areas on commercial and/or public properties designed specifically for vehicular parking.

Premises means lots, sidewalks, alleys, rights-of-way, grass strips and curbs up to the edge of the pavement of any public thoroughfare.

Public property means any area that is used or held out to be used by the public, whether owned or operated by a public interest, including but not limited to highways, streets, alleys, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public thoroughfare or body of water.

Refuse means solid waste accumulations consisting of garbage, containerized household trash, noncontainerized household trash, containerized light yard trash, heavy yard trash, white goods/large appliances, and commercial trash as defined in this section.

Refuse containers and receptacles means approved and unapproved vessels used to store all types of garbage, trash, waste and refuse. Refuse containers and receptacles approved by the town for use hereunder include compactors, dumpsters, roll-off boxes and rollout carts.

Residential property means any single-family dwelling that is owner-occupied or multifamily property with a grouping of four or less units, unless such dwelling unit or grouping of units has been approved by the town commission to be classified as commercial property. Residential properties are typically serviced through the use of rollout carts.

Roll-off box means a container varying in capacity between ten cubic yards and 40 cubic yards which is used for collecting, storing and transporting building materials, business trash, industrial waste, hazardous refuse, refuse or yard trash. The container may or may not use an auxiliary stationary packing mechanism for compaction of materials into the container and may be of the open or enclosed variety. The distinguishing feature of the detachable container is that it is picked

up by a specially equipped truck and becomes an integral part of the truck for transporting the waste materials to the disposal site.

Rollout cart means a 64-gallon to 96-gallon plastic container of a type approved by the town manager or designee, of substantial construction with a tightfitting lid and provided with wheels and handles sufficient for safe and convenient handling.

Single-family residential unit means any building or structure containing not more than one dwelling unit that is owner-occupied and which is not, in parts or whole, leased to a tenant or otherwise utilized for commercial purposes.

(Ord. No. 14-1993, § I, 5-5-1993; Ord. No. 11-2002, § 1, 4-17-2002; Code 1978, § 10-1)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 24-2. Garbage, trash and recyclable collection reserved exclusively in town or its contractors.

The governmental function of collection, removal and disposal of all garbage, trash and recyclables within the municipal limits of the town is exclusively vested in the municipal government of the town, its contractors and franchises, and all other individuals, persons, firms or corporations are specifically and expressly prohibited from engaging in that practice or business within the corporate limits of the town and from utilizing the publicly dedicated streets, alleys and other thoroughfares for such purposes.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-2)

Sec. 24-3. Administration of chapter.

Collection, storage and disposal of all garbage and trash shall be in accordance with this chapter. The administration of this chapter shall be the duty of the town manager or designee except as otherwise stated.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-3)

Sec. 24-4. Policies, rules and fees.

Any policy, rule, fee, charge or assessment for the proper administration of this chapter may be established by resolution of the town commission.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-4)

Sec. 24-5. No profit requirement for town contractors or franchisees.

Any other applicable ordinances or laws to the contrary notwithstanding, all contractors or franchisees of the town shall be required to properly and timely fulfill all the terms and conditions of their contracts/franchises, including all fees and prices, and said contractors/franchisees, or their agents or subsidiaries shall not, as a matter of law, be entitled to a profit on their respective contracts/franchises.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-5)

Sec. 24-6. Deposit other than in approved container.

No person shall place or keep garbage or trash anywhere within the town in any vessel or receptacle other than in a standard, approved garbage or trash container from which regular collections are made unless otherwise provided by this chapter.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-6)

Sec. 24-7. Use of receptacles by other persons.

It shall be unlawful for persons to use receptacles, containers, or rollout carts owned or assigned to other persons.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-7)

Sec. 24-8. Dumping on property owned by others prohibited.

It shall be unlawful to dispose or discard any garbage, trash or litter on property owned or controlled by someone else. Violations shall be subject to a fine pursuant to the Town's fee schedule as is established from time to time by the adoption of a resolution by the Town Commission.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-8)

State law reference(s)—Florida litter law, F.S. § 403.413.

Sec. 24-9. Offensive deposits; burying and depositing in waterways.

No person shall deposit on or bury in, or cause to be deposited on or buried in, any land, public square, street, alley, vacant or unoccupied lot, or any creek or watercourse any noxious, filthy, malodorous or offensive liquid or solid material, garbage or trash.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-9)

Cross reference(s)—Waterways, Ch. 76.

State law reference(s)—Florida litter law, F.S. § 403.413.

Sec. 24-10. Out-of-town refuse; transfer station.

It shall be unlawful for any person or agent to deposit any form of refuse collected outside of the town's corporate limits at any place within the town's corporate limits.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-10)

Sec. 24-11. Appliances with locking or magnetic door closing devices.

It shall be unlawful for any person to leave outside any building, in a place accessible to children, any appliance, refrigerator or container with a locking or magnetic door closing device unless the door or lid has been removed.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-11)

Sec. 24-12. Recyclable materials and recycling containers.

(a) It shall be unlawful for any unauthorized person or agent to remove articles or otherwise disturb materials in recycling containers, or to remove, damage or destroy recycling containers.

(b) It shall be unlawful to place any material not suitable for recycling in a recycling container.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-12)

Sec. 24-13. Responsibility of owner.

Ultimate responsibility for compliance with the provisions of this chapter shall lie with the owner of the property in question. This shall not, however, preclude an enforcement action against another person occupying, controlling or otherwise responsible for a property upon which there is found to be a violation of this chapter.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-13)

Sec. 24-14. Enforcement.

The provisions of this chapter shall be enforced through the code compliance board or through the alternate code enforcement procedures, except that the collection of fees, costs and assessments shall be enforced pursuant to procedures provided in article IV of this chapter or by the town commission.

(Ord. No. 14-1993, § I, 5-5-1993; Code 1978, § 10-14)

Sec. 24-15. Collection and enforcement during an emergency declaration.

A property owner, or the tenant of a residence or business shall not place any debris, trash vegetative yard waste, or recycling materials out for collection once the mayor has rendered a declaration of emergency for the town. In the event of a violation of this section occurs, the town may immediately dispose of the materials and charge its actual costs of collection and disposal, along with a one-time \$250.00 fee and any other administrative charges it incurs and invoice the property owner or business for the payment of these costs. If the costs are not paid, the town may record a lien against the property.

(Ord. No. 12-2018, § 2, 10-17-2018)

Secs. 24-16—24-30. Reserved.

ARTICLE II. RESIDENTIAL PROPERTY SOLID WASTE AND RECYCLABLE COLLECTION SERVICE

Sec. 24-31. Base collection service.

Base collection service shall include collection and disposal of containerized garbage, single-family light yard trash and containerized household trash and recyclable materials. Containerized garbage and trash shall be placed in containers provided by the town.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-19)

Sec. 24-32. Special collection service.

Any refuse which is not provided for as part of the base collection service established herein and which is collected by the town shall constitute a special pickup and shall be subject to an additional charge in accordance with the rate schedule established pursuant to section 24-111.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-20)

Sec. 24-33. Collection schedule.

The schedule for solid waste collection services shall be established and may be amended by resolution of the town commission.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-21)

Sec. 24-34. Approved containers.

- (a) *Building materials.* The property owner of any property which requires roll-off containers to secure and remove building materials or other solid waste during construction, or which is associated with other permitted activities, shall make arrangements with the Town's Public Works Department for roll-off containers from providers approved by the Town. A property owner's failure to make such arrangements may subject the property owner to a fine pursuant to the Town's fee schedule which is adopted from time to time by a resolution of the Town Commission.
- (b) *Garbage and trash.* The town requires the owner or occupant of any real property to utilize adequate and suitable refuse receptacles and containers capable of holding all waste materials which would ordinarily accumulate between the times of successive collections. The town manager or designee shall determine the type, size, quantity and location of receptacles on developed properties and shall determine whether containers are serviceable.
- (c) *Recyclables.* Plastic garbage bags or other home use containers shall not be utilized as containers for recyclable materials. Only containers designated by the town shall be utilized for recyclable material collection.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-22)

Sec. 24-35. Additional/replacement containers.

The town may set aside funds within its budget for periodic replacement of garbage and trash, and recycling containers. Additional containers and interim replacement of such containers as are lost, damaged or stolen shall be obtained at the expense of the owner or occupant of the residence.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-23)

Sec. 24-36. Container maintenance.

- (a) *Responsibility for maintenance.* It shall be the responsibility of any person using a refuse container or receptacle furnished by the town to maintain such container in a sanitary condition.
- (b) *Covering containers.* All garbage and trash containers shall be kept tightly covered at all times, except as it is necessary to remove the cover for the purpose of depositing garbage or trash in the container or when collection is being made.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-24)

Sec. 24-37. Underground containers prohibited.

Containers stored partially or totally below the surface of the ground are prohibited. Existing underground containers must be removed and spaces remaining shall be properly filled with soil or other suitable material.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-25)

Sec. 24-38. Preparation of materials for collection.

- (a) *Garbage.* All wet garbage matter shall be wrapped in paper or disposable containers before being placed in refuse containers. All garbage, after having been so wrapped and drained of all liquids, shall be daily deposited in the garbage containers herein required. Nonrecyclable containers shall first be drained of all liquid prior to deposit in refuse containers.
- (b) *Containerized household trash.* Household trash which is of a size capable of being contained within the refuse container normally used for garbage shall be placed therein for collection. It shall be unlawful to place household trash which has not been drained of all liquids in said container.
- (c) *Noncontainerized household trash and white goods/large appliances.* Noncontainerized household trash and white goods/large appliances shall not be placed at curbside except as herein stated. Upon request, the town shall collect normal household discarded furniture or appliances, including, but not limited to, sofas, chairs, beds, refrigerators, washers, dryers, hot water heaters and similar items. Residents, including tenants or lessees, requesting this service of the town will be given a date when collection will occur.

- (d) *Light yard trash.* Persons providing routine lawn maintenance services may be allowed to dispose of light yard trash at the residence served, yard trash which is generated on-site by routine maintenance.
- (e) *Heavy yard trash.* Except as provided in section 24-39(d), residents, including tenants or lessees engaging a commercial landscape or lawn maintenance business shall be required to notify the town of heavy yard trash generated by their activities and to utilize the services of the town for disposal of such yard trash and to compensate the town in accordance with the rate schedule established pursuant to section 24-111.
- (f) *Noncontainerized refuse materials.* Noncontainerized refuse materials shall be so prepared and contained so as not to be blown about by the wind.
- (g) *Recyclables.*
 - (1) All residents of the town shall source-separate all designated recyclables in the designated container, placing them at designated pickup points on the days or dates specified for collection by the schedule published by the town.
 - (2) Designated recyclables for this townwide program shall consist of the following materials:
 - a. Newsprint plus glossy, printed material;
 - b. Food and beverage cans;
 - c. Clear, brown or green glass containers, with caps and lids removed;
 - d. Plastic containers, with markings indicating suitability for recycling; and
 - e. Such other materials and containers as may be specified by the solid waste authority and approved by the town commission.
- (h) *Special/prohibited materials.*
 - (1) *Dangerous trash items.* It shall be unlawful to place dangerous trash items and all waste materials of injurious nature in containers unless they are securely wrapped so as to prevent injury to the collection crew or agency. Dangerous trash and waste materials shall include, but shall not be limited to, broken glass, lightbulbs, sharp pieces of metal, fluorescent tubes and television tubes.
 - (2) *Hazardous, contagious or medical refuse.* It shall be unlawful to place hazardous, contagious or medical refuse, containerized or noncontainerized, for collection by the town. Such materials shall include pesticides; clothing, bedding or other refuse liable to spread contagion; hypodermic needles; or other medical waste. Generators of such materials shall be responsible for storage, collection and disposal of same at an authorized disposal site as determined by the community development department.
 - (3) *Tires and motor vehicle parts.* It shall be unlawful to place tires and motor vehicle parts, containerized or noncontainerized, for collection by the town. Generators of such materials shall be responsible for storage, collection and disposal of same at an authorized disposal site as determined by the community development department unless otherwise arranged pursuant to section 24-32.

- (4) *Minor building repairs.* Building materials resulting from minor repairs performed by the owner or occupant which meet the requirements for trash collection must be bundled, bagged, boxed or placed in a refuse container and will be collected at curbside. Discarded lumber pieces must be no longer than two feet without nails. Larger materials may be picked up by special request at an additional charge.
- (5) *Ashes.* It shall be unlawful to place ashes or live coals in containers unless those ashes or coals have been wetted and are cool to the touch prior to placement in the container.
- (6) *Cardboard boxes and cartons.* It shall be unlawful for any person disposing of cardboard boxes, cartons or crates in refuse containers to fail to collapse same prior to depositing that refuse for collection.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-26)

Sec. 24-39. Placement of containers, materials and vehicles.

- (a) *Placing of refuse and refuse containers for collection.* No refuse or refuse container shall be kept upon or adjacent to any street, sidewalk, swale, front yard, side yard or other place within the view of persons using the town's streets and sidewalks, except that:
 - (1) No earlier than 4:00 p.m., on the day preceding that upon which refuse collections are customarily made from such premises, or no later than 7:30 a.m., on the day on which refuse collections are customarily made from such premises, refuse containers and noncontainerized yard or household trash shall be placed within six feet of the street or just inside the public walk for the purpose of permitting the collection of refuse therefrom, and such refuse containers shall be removed from such place on the same day collection is made.
 - (2) On streets where no swales or lawn areas near the street are available for the placement of refuse containers of noncontainerized trash, the owner or occupant shall place same adjacent to the driveway but not further than six feet from the street.
- (b) *Overloading refuse containers.* It shall be unlawful to overload a refuse container by allowing materials to accumulate above the "water level" of a container. The water level is the highest level that water could stand in a container when situated on a level surface.
- (c) *Blockage of storm drains.* It shall be unlawful for any person to place any refuse, trash, refuse receptacle or container on, upon, or over any storm drain or so close thereto as to be drawn by the elements into the storm drain.
- (d) *Access to mechanical containers.* It shall be unlawful for anyone to place or maintain materials or place any vehicle, whether temporarily or permanently, so as to block access to any mechanical container.
- (e) *Penalty.* The town may assess a special fee, established pursuant to section 24-111, for a return trip or other additional service made necessary by a violation of this section. Violations may also be subject to a fine pursuant to the Town's fee schedule approved by Resolution of the Town Commission.

(Ord. No. 14-1993, § II, 5-5-1993; Code 1978, § 10-27)

Secs. 24-40—24-70. Reserved.

ARTICLE III. COMMERCIAL PROPERTY SOLID WASTE AND RECYCLABLE COLLECTION SERVICE

Sec. 24-71. Base collection service.

Base collection service shall include collection and disposal of the volume of containerized garbage, commercial trash and recyclable materials expected to be generated by the property. Said volume may be determined by the town on the basis of the user classification schedule established for refuse disposal assessments by the Palm Beach County Solid Waste Authority or by other equitable basis as determined by the town commission.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-36)

Sec. 24-72. Special collection service.

Any refuse which is not prepared for collection as provided herein and which is collected by the town shall constitute a special pickup and shall be subject to an additional charge in accordance with the rate schedule established pursuant to section 24-111.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-37)

Sec. 24-73. Collection schedule.

Commercial accounts will be serviced on a Monday through Friday basis with the number of pickups being determined by the type of business and amount of garbage/trash generated in accordance with the determination made pursuant to section 24-71.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-38)

Sec. 24-74. Approved containers.

- (a) *Garbage and trash.* The town shall require the owner or occupant of any real property to utilize adequate and suitable refuse receptacles and containers capable of holding all waste materials which would ordinarily accumulate between the times of successive collections. The town manager or designee shall determine the type, size and quantity of receptacles as well as the frequency of pickup for receptacles on developed properties. Said determination shall be made by the town manager or designee on an equitable basis which may include, but not be limited to, the user classification schedule established for refuse disposal assessments by the Palm Beach County Solid Waste Authority. All mechanical containers shall be purchased by the town and rented to all commercial customers with the rental fee paid as part of the standard rate fee. The town shall determine whether containers are serviceable.
- (b) *Recyclables.* Only containers designated by the town shall be utilized for recyclable material collection.
- (c) *Roll-off boxes.* Commercial customers, if required to utilize a roll-off container, shall obtain roll-off/roll-on collection service through a provider holding a franchise from the town and shall make payment therefor to the franchisee.
- (d) *Building materials.* The property owner of any property which requires a roll-off containers to secure and remove building materials or which is associated with other permitted activities, shall make arrangements with the Town's Public Works Department to for roll-off containers from a provider approved by the Town. A property owner's failure to do so may result in a fine pursuant to the Town's fee schedule adopted from time to time by a resolution of the Town Commission.
- (e) *Charges based on capacity.* The charges established pursuant to section 24-111 for mechanical containers and commercial refuse container service shall accrue and be payable on the total capacity of the container whether or not it is full.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-39)

Sec. 24-75. Container maintenance.

- (a) *Responsibility.* It shall be the responsibility of any person using a refuse container or receptacle furnished by the town to maintain such container in a sanitary condition.
- (b) *Covering of containers.* All garbage and trash containers shall be kept tightly covered at all times, except as is necessary to remove the cover for the purpose of depositing garbage or trash in the container or when collection is being made.

(Ord. No. 14-1993, § III, 5-5-1993; Ord. No. 11-2002, § 2, 4-17-2002; Code 1978, § 10-40)

Sec. 24-76. Container storage/screening.

- (a) *Prohibited locations.*
 - (1) *Generally.* Dumpsters shall not be located within the right-of-way of a public street or alley.
 - (2) *Special exception:* For buildings constructed prior to adoption of the ordinance from which this section is derived and where unusual conditions exist which do not provide for the usual placement of refuse containers on the property as provided herein, the community development department, after consultation with the property owner or representative, as applicable, shall determine a satisfactory alternative location for the placement of said refuse container.
- (b) *Requirements for building renovation, modification or erection of new structures.* Prior to the issuance of a building permit by the community development department for the renovation, modification or erection of a new structure other than single-family dwellings, provisions must be made for the storage and handling of refuse and recyclables. Such arrangements shall provide free access to containers by mechanized equipment at all times. The community development department, after consultation with the contractor or owner, as applicable, shall determine the proper location for said containers.
- (c) *Dumpster placement surface.* Newly developed properties shall provide a concrete dumpster placement surface, in accordance with the specifications of the town building code. The minimum inside dimensions of such surface shall be sufficient to provide a clear area of 12 feet by ten feet for a single refuse container.
- (d) *Replacement of dumpster placement surface.* When existing dumpster placement surface requires replacement due to deterioration, the replacement surface shall be of concrete, and in accordance with specifications of the town building code. The minimum inside dimensions of such surface shall be sufficient to provide a clear area of 12 feet by ten feet for a single refuse container.
- (e) *Screening of refuse containers and receptacles.* The regulations provided in this subsection shall apply to all developed properties except as provided herein. The regulations provided in this subsection shall not apply to the temporary use of refuse containers and receptacles, such as those placed on-site during construction.

- (1) Refuse containers and receptacle enclosures shall be screened from view, from public streets and abutting properties, wherever practical as determined by the community development department.
- (2) Sufficiency of accessibility to dumpsters shall be determined by the community development director and/or the town manager or designee.
- (3) A building permit shall be required for construction of receptacle screening enclosures. Such construction shall be in compliance with the town building code.
- (4) Natural plant screening materials shall be capable of attaining a height of six feet within two years of installation and shall be maintained at a height not greater than that of any dumpster enclosure.
- (5) All refuse containers and receptacles must be placed on a hard surface. Such surface shall be repaired or replaced as needed at the expense of the owner.
- (6) Screening enclosures, if not currently provided to the specifications herein, shall be in compliance with this section within six months of the effective date of the ordinance from which this chapter is derived.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-41)

Sec. 24-77. Preparation of materials for collection; special/prohibited materials.

- (a) *Hazardous, contagious or medical refuse.* It should be unlawful to place hazardous, contagious or medical refuse, containerized or noncontainerized, for collection by the town. Such materials shall include pesticides; clothing, bedding or other refuse liable to spread contagion; hypodermic needles; or other medical waste. Generators of such materials shall be responsible for storage, collection and disposal of same at an authorized disposal site as determined by the community development department.
- (b) *Tires and motor vehicle parts.* It shall be unlawful to place tires and motor vehicle parts, containerized or noncontainerized, for collection by the town. Generators of such materials shall be responsible for storage, collection and disposal of same at an authorized disposal site as determined by the community development department unless otherwise arranged pursuant to section 24-32.
- (c) *Building materials.* All properties which require a roll-off container to secure and remove building materials during construction, or other solid waste materials shall make arrangements with the Town's Public Works Department for roll-off containers from providers approved by the Town. The failure to do so may result in a fine pursuant to the fee schedule adopted from time to time by resolution of the Town Commission.
- (d) *Minor building repairs.* Building materials resulting from minor building repairs performed by the owner or occupant of a commercial property may be placed in the refuse container used for regular garbage and trash collection service. Discarded lumber pieces must be no longer than four feet and without nails. Subject to the approval of the town's public works department, larger materials may be placed at a predetermined location for collection at an additional charge.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-42)

Sec. 24-78. Placement of containers, materials and vehicles.

- (a) *Overloading refuse containers.* It shall be unlawful to overload a refuse container by allowing materials to accumulate above the "water level" of a container. The water level is the highest level that water could stand in a container when situated on a level surface.
- (b) *Blockage of storm drains.* It shall be unlawful for any person to place any refuse, trash, refuse receptacle or container on, upon or over any storm drain or so close thereto as to be drawn by the elements into the storm drain.
- (c) *Access to mechanical containers.* It shall be unlawful for anyone to place or maintain materials or place any vehicle, whether temporarily or permanently, so as to block access to any mechanical container.
- (d) *Penalty.* The town may assess a special fee, established pursuant to section 24-111, for return trips or other additional service made necessary by a violation of this section.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-43)

Sec. 24-79. Construction and demolition sites.

- (a) *Receptacles and containers required.* It shall be unlawful for any contractor to fail to provide a suitable number of approved roll-off containers for loose debris, paper, building material waste, scrap building material and other trash produced by those working on a construction site. Roll-off containers, if required, shall be obtained through a provider holding a franchise from the town and shall be payable to the franchisee. All material on construction sites shall be containerized by the end of each day and the site shall be kept in a reasonably clean and litter-free condition.
- (b) *Removal of concrete or other substances deposited on road surface.* Where concrete or any other substance permanently affixes itself to the road surface, causing the surface to be uneven or defaced, it shall be immediately removed by person responsible. The person responsible, as identified in this section, shall mean the driver of the vehicle which deposited the substance onto the street, the driver's employer, the owner of the real property containing the construction or demolition site and/or the prime contractor in charge of a site from where the substance originated.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-44)

Sec. 24-80. Loading and unloading areas.

Any person maintaining a loading or unloading area shall provide a suitable number and type of receptacles for loose debris, paper, packaging materials and other trash. Such person shall maintain this area neat, clean and litter free.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-45)

Sec. 24-81. Parking lots.

All commercial and public parking lots shall have refuse receptacles distributed within the parking area. All receptacles shall be weighted or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner of the parking lot to provide a suitable number and type of receptacles and to collect the refuse and trash deposited in those containers and store this material in an approved refuse container for collection by the town.

(Ord. No. 14-1993, § III, 5-5-1993; Code 1978, § 10-46)

Secs. 24-82—24-110. Reserved.

ARTICLE IV. RATES AND CHARGES

Sec. 24-111. Town commission to set rates, billing and collection policy.

By resolution or other official action, the town commission shall establish and may periodically amend such rates, fees, charges and other assessments to residential, commercial, agricultural and governmental persons and entities as it shall deem necessary or proper for the administration of this chapter. Such assessments may include requirements for prepayments or deposits based upon credit history and other relevant considerations. Further, said resolution or other official action may set other collection related policies including, but not limited to, deadlines for payment, declaration of delinquency, service fee for a dishonored check, discontinuation of service.

(Ord. No. 14-1993, § IV, 5-5-1993; Code 1978, § 10-55)

Sec. 24-112. Fee debt to town; late fee; enforcement.

- (a) *Fee as debt.* The amount of any charge, fee or assessment due under this article is hereby declared to be a debt due to the town, or its agents, and any person required under the terms of this chapter to have accumulations of garbage and trash removed and disposed of by the town, or its agents, shall be liable to the town for that debt.
- (b) *Late fees.* Any bill remaining unpaid for a period of 30 days after rendition shall be delinquent and shall be subject to a late fee established by the town. Additionally, the town shall take legal action to enforce collection of the debt.
- (c) *Enforcement of lien.* A debt created hereunder may be enforced by a lien on real or personal property, by revocation of a business tax receipt and/or by any other lawful means. Any and all costs of enforcement, including attorneys' fees, shall be borne by the party or parties for that debt.
- (d) *Liability for charges and assessments for disposal costs.* Notwithstanding anything herein to the contrary, each property owner and user shall be jointly and severally liable for all charges and assessments for collection and disposal costs.

(Ord. No. 14-1993, § IV, 5-5-1993; Code 1978, § 10-56; Ord. No. 11-2006, § 6, 12-6-2006)

Sec. 24-113. Person billed for water shall be responsible for charges.

In addition to any person otherwise identified herein, the person or company in whose name water services are billed by the town or designated billing agent shall be considered and declared to be, for the purpose of the enforcement of this chapter, jointly and severally responsible for the payment of fees, rates and charges due pursuant to this chapter.

(Ord. No. 14-1993, § IV, 5-5-1993; Code 1978, § 10-57)

Secs. 24-114—24-140. Reserved.

ARTICLE V. SOLID WASTE ASSESSMENT

Sec. 24-141. Definitions.

For the purposes of this article, the definitions contained in this section shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.

Annual solid waste assessment roll means a list confirmed by the town commission each fiscal year of all lots and parcels of assessed property in the town within the boundaries of the town containing the following information:

- (1) A summary description of each lot and parcel conforming to the description contained on the real property assessment roll;
- (2) The name and address of the owner of each lot and parcel as reflected on the real property assessment roll; and
- (3) The annual solid waste assessment imposed on each residential lot or parcel as established in the rate resolution.

Assessed property means such lots or parcels as may be designated by the town commission in the rate resolution, against which the solid waste assessment is imposed.

Assessment date means January 1 of each year, or such other date as may be designated by the town commission, which date shall constitute the date on which the solid waste assessment is imposed as a lien against assessed property listed on the annual solid waste assessment roll or on any addendum thereto.

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

Commercial property means any property utilized for commercial, governmental, agricultural, and industrial purposes or single-family and/or multifamily units or grouping of five or more units maintained as residential rental properties or units. Commercial single-family and/or multifamily units or grouping of five or more units shall be billed in accordance with approved

commercial sanitation rates. Commercial properties are typically serviced through the use of dumpsters or compactors.

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

Governmental property means all property owned by any federal, state, county, municipal or local governmental units, or any agency of such governmental unit, including school boards.

Improved property means all residential and commercial property, containing a building that generates, or is capable of generating, solid waste.

Mobile home means manufactured homes, trailers, campers and recreational vehicles.

Rate resolution means the resolution adopted by the town commission under the provisions of section 24-145 establishing the schedule of solid waste assessments to be imposed, and the categories of assessed property.

Real property assessment roll means the assessment roll maintained by the property appraiser under law for the levy of ad valorem taxes on real property.

Residential property means any single-family dwelling maintained that is owner-occupied or multifamily property with a grouping of four or less units, unless such dwelling unit or grouping of units has been approved by the town commission to be classified as commercial property. Residential properties are typically serviced through the use of rollout carts.

Single-family residential unit means any building or structure containing not more than one dwelling unit that is owner-occupied and which is not, in parts or whole, leased to a tenant or otherwise utilized for commercial purposes. Residential properties are typically serviced through the use of rollout carts.

Solid waste means all types of garbage, trash, refuse and recyclables described, defined or contemplated pursuant to this chapter.

Solid waste assessment means the annual non-ad valorem special assessment imposed upon a residential property in the town to pay for the cost of collection, disposal and management of solid waste generated or capable of being generated from such property and the administrative costs related thereto.

Solid waste assessment category means the classification of improved property incorporated in the rate resolution, whose classification may constitute a subcategory of a type of property defined or referenced herein.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-70)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 24-142. Findings.

It is hereby ascertained, determined and declared that:

- (1) The requiring of all persons owning or occupying improved property within the town to dispose of solid waste and other wastes and discarded property generated on such

property in accordance with the provisions of this chapter will greatly reduce the instances of illegal dumping and littering.

- (2) It is necessary to the health, welfare and safety of the residents of the town to provide for a comprehensive program for collection and disposal of solid waste.
- (3) It is further necessary in the implementation of such a comprehensive program to require all persons owning or occupying residential or commercial property within the town to have their solid waste collected and disposed of pursuant to the town's program for same.
- (4) The imposition of an annual solid waste assessment is the most equitable and efficient method allocating and apportioning the cost of collection and disposal of solid waste for residential properties within the town.
- (5) The annual solid waste assessment imposed under this article to pay the cost of administration and operation of the town's system for collection and disposal of solid waste for residential properties is a non-ad valorem (special) assessment within the meaning and intent of F.S. § 197.3632, or its successor in function.
- (6) It is hereby declared and determined by the town that the town's system for collection and disposal of solid waste for commercial and residential properties shall and does constitute a benefit to such properties which is equal to or in excess of the cost of providing such service.
- (7) That each property assessed hereunder does receive a special benefit from the services to be provided pursuant to this chapter and that the assessment contemplated hereunder is fairly and reasonably apportioned among such properties receiving such special benefit.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-71)

Sec. 24-143. Mandatory disposal of garbage, trash and recyclables.

All solid waste generated within the town shall be disposed of exclusively pursuant to the town's program for the collection and disposal of such solid waste as provided by this chapter.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-72)

Sec. 24-144. Prima facie evidence of accumulation of garbage, trash and recyclables.

The fact that any commercial or residential property is capable of being occupied shall be prima facie evidence that solid waste is being generated from or accumulated upon such property.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-73)

Sec. 24-145. Imposition, amount and collection of assessment.

- (a) *Imposed.* There is hereby imposed on the assessment date against each lot or parcel of residential property with the town a solid waste assessment for the collection and disposal of solid waste pursuant to the provisions of this chapter.

- (b) *Amount of assessment.* The amount of the solid waste assessment imposed each fiscal year against each lot or parcel of residential property shall be at the rate established in the rate resolution for the solid waste assessment category applicable to such property.
- (c) *Collection and enforcement.* It is the intent of the town commission that the cost of collection and disposal services as well as the management and administrative costs and other costs reasonably related to such services be paid through the imposition of the annual solid waste assessment on all residential properties; provided that the commission may provide for a separate method of collection for the cost of disposal of solid waste or certain categories thereof. It is further the intent of the town commission to utilize the provisions of F.S. § 197.3632, and its successor, to provide a uniform method for the levy, collection and enforcement of this non-ad valorem assessment.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-74)

Sec. 24-146. Adoption of rate resolution and solid waste assessment roll.

The rate resolution shall fix and establish the solid waste assessment for residential properties and commercial dumpster rates to be imposed within each solid waste assessment category for the ensuing fiscal year.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-75)

Sec. 24-147. Adoption of uniform method.

The town commission does hereby adopt the uniform method for levy, collection and enforcement of non-ad valorem assessments as specified in F.S. § 197.3632, and its successor, for the imposition of the solid waste assessment pursuant to this article.

(Ord. No. 12-1994, § I, 8-3-1994; Code 1978, § 10-76)

Sec. 24-148. Corrections to assessment roll.

- (a) Errors in the annual solid waste assessment roll may be corrected as provided for in this section.
- (b) The town commission, or its designee, shall have the authority, at any time, upon its own initiative or in response to a petition from any affected owner of improved real property to correct any error of omission or commission in the adoption of any annual solid waste assessment roll or in the implementation of the rate resolution, including, but not limited to, an error in including any parcel of improved real property on such roll when such real property is not subject to assessment within the scope of the rate resolution and any error in the calculation of the annual solid waste assessment roll imposed against any parcel of improved real property.
- (c) Any owner of a parcel of improved real property may petition to correct any asserted error of omission or commission in the classification of the owner's improved real property used in the adoption of the annual solid waste assessment roll, by filing a petition consistent with the provisions herein with the town manager between October 1 and January 31 of the fiscal year for which the solid waste assessment is levied. Failure to file such petition by January 31 of

the fiscal year for which the solid waste assessment was levied shall be a complete waiver of any right of an owner to seek a correction for such year.

- (d) The petition may be initiated orally or in writing, but in either case shall contain, at a minimum, the following information:
 - (1) The name and address of all owners of the parcel;
 - (2) The address and parcel number of the property for which the correction is sought;
 - (3) Documentation or information supporting the owner's asserted error in the classification of the parcel or the calculation of the amount of assessment.

The town manager, or the town manager's designee, shall review the petition and shall correct any errors upon finding that the owner has demonstrated an error in the classification or assessment amount assigned to such parcel. In making such determination, the standards set out in the rate resolution shall be followed.

- (e) Upon approval of correction of the solid waste assessment, the town manager or the town manager's designee shall notify the property appraiser's office of the correction to be entered into the records.
- (f) The decision of the town manager, or the town manager's designee, on a petition will be made in writing, addressed and mailed (in the case of a denial, by certified or registered mail, return receipt requested) to the petitioner within 90 days of receipt of the petition by the town. The decision shall be made based on the written or oral petition submitted by the petitioner and supporting documentation, and the burden shall be on the petitioner to demonstrate the reasons supporting the petition.
- (g) The owner receiving a correction under this section who has paid the annual solid waste assessment as originally imposed shall be entitled to a refund representing the difference between the assessed amount and the corrected amount of the annual solid waste assessment. Such refund shall be paid to the person or party making payment. The owner receiving a correction under this section that has not paid the annual solid waste assessment should receive a corrected assessment from the tax collector.
- (h) If the petitioner is not satisfied with the decision of the town manager or the town manager's designee, the petitioner may appeal such decision to the town commission in a written petition specifying the reasons for such appeal. Such appeal shall be designated as an appeal of the decision of the town manager and shall refer to the specific decision rendered by the town manager, and must be mailed or delivered to the town clerk's office within 30 days of receipt of the decision of the town manager. Failure to file the appeal within such time limit shall constitute a forfeiture of such right of appeal. Upon receipt by the town of the petition for appeal, the matter shall be scheduled for hearing by the town commission, or its designee, at the earliest possible date, not to exceed 60 days from the date of receipt by the town of the petition for appeal. The date of such scheduled hearing may be rescheduled beyond the 60-day period by mutual agreement of petitioner and the town. The petitioner shall be given reasonable notice of such hearing by certified or registered mail, return receipt requested, sent to the address on the annual solid waste assessment roll or another address if specifically designated in the petition for appeal. The town commission may designate by resolution an independent person or persons, not an employee of the town, to carry out the responsibilities of the town commission to hear, review and render decisions on appeals.

- (i) At any hearing on such petition for appeal formal rules of evidence shall not apply, but fundamental due process and the essential requirements of law shall be observed and shall govern the proceedings. The burden shall be on the petitioner to prove the right to the relief requested by clear and convincing evidence. All witnesses shall be placed under oath or affirmation by any officer permitted under Florida law to administer oaths or by the town clerk. Petitioner and the town shall have the right to:
 - (1) Call and examine witnesses;
 - (2) Introduce exhibits;
 - (3) Cross examine witnesses on any relevant matter; and
 - (4) Rebut the evidence.

- (j) At all hearings, the town commission or town commission designee shall hear and consider all facts material to the petition and thereafter the town commission or town commission designee, also considering the provisions of the town Code and amendments thereto, as well as the purposes and intent thereof, may grant or deny, partially or wholly, the relief requested in the petition. The decision of the town commission or town commission designee, resulting from a hearing, shall be final and no petition for rehearing or reconsideration shall be considered. Any person, including the town and the petitioner, who is aggrieved by any decision of the town commission or town commission designee, may apply in the circuit court of the county within 30 days of rendition of such decision for a review by writ of certiorari in accordance with the applicable Florida Appellate Rules. However, this provision shall not be construed to limit any other remedy provided by law.

(Ord. No. 18-1994, § I, 12-14-1994; Code 1978, § 10-77)

Upon First Reading this 4 day of January, 2023, the foregoing Ordinance was offered by Commissioner Michaud who moved its approval. The motion was seconded by Commissioner Taylor and being put to a vote, the result was as follows:

	AYE	NAY
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	<u> </u>
COMMISSIONER JOHN LINDEN	<u> </u>	<u>/</u>
COMMISSIONER ROGER MICHAUD	<u>/</u>	<u> </u>
COMMISSIONER MARY BETH TAYLOR	<u>/</u>	<u> </u>

PUBLISHED IN THE PALM BEACH POST THIS 8 DAY OF January, 2023

Upon Second Reading this 18 day of January, 2023, the foregoing Ordinance, was offered by Commissioner Michaud who moved its adoption. The motion was seconded by Commissioner Taylor and being put to a vote, the result was as follows:

	AYE	NAY
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	<u> </u>
COMMISSIONER JOHN LINDEN	<u>/</u>	<u> </u>
COMMISSIONER ROGER MICHAUD	<u>/</u>	<u> </u>
COMMISSIONER MARY BETH TAYLOR	<u>/</u>	<u> </u>

The Mayor thereupon declared **Ordinance** 01-2023 duly passed and adopted this 18 day of January, 2023.

TOWN OF LAKE PARK, FLORIDA
BY: Kimberly Glas-Castro
Vice-Mayor, Kimberly Glas-Castro

ATTEST:
Vivian Mendez
Town Clerk, Vivian Mendez

Approved as to form and legal sufficiency:
Thomas J. Baird
Town Attorney, Thomas J. Baird

