

## Chapter 10

### GARBAGE AND REFUSE\*

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\* **Cross References:** Administration, Ch. 2; animals, Ch. 4; buildings and building regulations, Ch. 5; code enforcement, Ch. 6; fire prevention, Ch. 8; health and sanitation, Ch. 11; accumulations of certain material required to be removed, § 1-7; excessive growth of weeds and brush prohibited, § 11-8; construction way to be removed from building site within thirty days after final inspection, § 11-10; junked, wrecked, abandoned property, Ch. 12; landscaping, Ch. 13; marine structures, ways and activities, Ch. 15; littering in waterways prohibited, § 15-22; planning and development, Ch. 19; solid waste disposal service, § 20-44; streets, sidewalks, bridges and other public places, Ch. 23; utilities, Ch. 26; zoning, Ch. 27.

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**Art. I. In General, §§ 10-1--10-19**

**Art. II. Recovered Materials; Dealer Registration, §§ 10-20--10-27**

#### ARTICLE I.

#### IN GENERAL

##### **Sec. 10-1. Definition.**

The word "garbage," as used in this chapter, shall be held to include all kitchen and table refuse, offal, all general combustible waste, such as paper and rags, pasteboard boxes, berry boxes, swill and every accumulation of animal and vegetable matter that attend the preparation, decay, dealing in or storage of meats, fish, fowl, game, or vegetable matter, also whole bottles, broken glass, and empty tin, fruit and vegetable cans. (Code 1964, § 12-1)

**Cross References:** Definitions and rules of construction generally, § 1-2.

##### **Sec. 10-2. Manner of disposal.**

It shall be unlawful for any person to bury, burn or dispose of any garbage in the city except as provided for in this chapter.

(Code 1964, § 12-2)

##### **Sec. 10-3. Receptacles--Residential.**

(a) Except as otherwise provided in this chapter, there shall be kept and maintained for all residences and apartment houses adequate receptacles in which garbage shall be placed and stored for collection. Garbage receptacles shall be of sufficient size to meet requirements for biweekly collection and be of water-tight construction provided with a tight-fitting cover and in no case hold less than twenty (20) gallons. Such receptacles shall be kept in a place on the street easily accessible to the garbage collector, but never on any sidewalk.

(b) The provisions of this section shall not apply when a garbage franchise provides otherwise.

(Code 1964, § 12-3)

#### **Sec. 10-4. Same--At public places.**

All boardinghouse keepers, butchers, hotels, restaurants, dining rooms, grocery stores or any other public place where garbage may accumulate, shall provide for the storage of such in a garbage room exclusively devoted to such purpose which is air conditioned at a temperature of no more than seventy-five (75) degrees Fahrenheit with a separate return (i.e., separately vented), and easily accessible to the garbage collector or located as conveniently as possible to the area on site where garbage is removed by the garbage collector. All such garbage shall be placed in watertight receptacles to hold no less than twenty (20) gallons, and such receptacles shall be thoroughly cleaned by the owner after being emptied by the garbage collector; to such end, the garbage room shall be equipped with a hose bib or other water supply and a drain, or a water supply and visually screened cleansing area with a drain or other means of disposal shall be located near the garbage room. (Code 1964, § 12-4; Ord. No. 1916, § 1, 4-28-93)

#### **Sec. 10-5. Moist garbage to be wrapped.**

All garbage or debris which might contain any moisture whatsoever shall first be wrapped in paper or plastic before being placed in the garbage receptacle. (Code 1964, § 12-5)

#### **Sec. 10-6. Disposal required.**

(a) All residents or occupants of premises in the city shall have the contents of their garbage cans picked up and disposed of by a garbage collector duly franchised by the city.

(b) No person shall allow an accumulation of garbage upon any premises within the city for a period longer than four (4) days without having arranged for disposal of such accumulation by some person or agency qualified under this chapter to perform such service or by the garbage department of the city. (Code 1964, § 12-6)

#### **Sec. 10-7. Franchise agreement with Waste Management, Inc.**

A franchise agreement has been entered into whereunder the city has exclusively franchised, licensed, and permitted Waste Management, Inc., of Florida to: (1) collect and dispose of solid waste within Plantation (except for construction and demolition debris); and (2) collect and provide certain services with respect to recovered materials generated by residential sites within Plantation. The franchise agreement sets forth the charges to be made for such services, the amounts to be paid the city for such franchise, and other matters. Subject to the agreement's termination provisions, it shall remain in effect until September 30, 2009, at which time it will be subject to one, two-year extension privilege unless either the franchisee or city elects not to so extend. Copies of the franchise agreement are available for review and inspection with the city clerk. (Code 1964, § 12-7; Ord. No. 1873, § 1, 9-2-92; Ord. No. 1900, § 1, 1-27-93; Ord. No. 2094, § 1, 7-31-96; Ord. No. 2278, § 1, 7-31-2002; Ord. No. 2386, § 1, 5-30-2007)

**Editors Note:** Section 3 of Ord. No. 1873, adopted Sept. 2, 1992, provides that the ordinance shall be retroactive to July 1, 1992.

#### **Sec. 10-7.1. Fees, costs, and charges related to environmental control, payment allocation for partial payment, interest and penalties, liens, and other methods of collection.**

(a) The franchise agreement approved in section 10-7 above sets forth the fees and charges for franchised solid waste and residential recovered materials services, the amounts to be paid to the city for such franchise, and other matters. These fees and charges are hereby approved and incorporated by reference as if fully set forth herein. In addition to all other fees required or allowed by law, the city may, by resolution of the governing body, impose fees for:

- (1) The collection, processing, and disposal of solid waste; and
- (2) Developing, implementing, and paying for the continuance of, a recovered materials program.

(b) For franchised solid waste and recovered materials services to residential dwelling units within Plantation which pay for these services through a combination of qualified bag purchases and monthly service fees (inclusive of franchise fees), the monthly service fees may be added to each such residential unit's water and wastewater services bill, commencing with the first bill in July, 2007. For franchised solid waste and recovered materials services to residential dwelling units within Plantation which use the Toter-Cart service system, the monthly service fees may be added to each such residential unit's water and wastewater services bill, commencing when implemented by the city's administration. When so implemented, the city shall collect the revenue it receives from the monthly service fees for residential dwelling unit solid waste and recovered materials services, and shall remit such collections once a month to the franchisee, less the retained franchise fee and other charges and fees as may be agreed upon. These monthly services fees shall be due and payable regardless of whether a residential dwelling unit generates any solid waste or recovered materials for the city's services during the applicable billing period, and shall carry interest or penalties, or both, for late payment in accordance with section 2-272 of this Code, and as same may be amended.

- (c) A partial payment of a consolidated environmental control bill (i.e. comprised of:
- (1) Water service or wastewater service; and
  - (2) Solid waste service, recovered materials service, and/or other future environmental control services, if any) shall be allocated first to the solid waste service portion of such bill until same is satisfied, then to the recovered materials service portion such bill until same is satisfied, then to other fees and charges which may in the future be established and which relate to environmental control until same are satisfied, then to the wastewater services portion of such bill until same is satisfied, and finally, to the water services portion of such bill until same is satisfied. The city shall be able to refuse to resume water service and wastewater service to a property until payment in full is made of solid waste and recovered materials services fees and charges (and other entire environmental control fees as may in the future be duly established) which may appear on a consolidated bill for environmental control services that includes billing for water and waste water services, in addition to all other rights and remedies the city may have to collect such fees and charges. The city may by resolution of the governing body establish other fees and charges related to environmental control, and add same to the city's environmental control billing which may include bills for water and wastewater services, and any such added fee or charge shall be subject to the preceding allocation sentence. The partial payment allocation set forth in this subsection shall not be applicable when water and wastewater services are not included in an environmental control bill, but are billed for by the city separately. Guaranty deposits for water

and wastewater service shall only be applied to the water and wastewater portions of an environmental control bill. Notwithstanding anything that may otherwise be to the contrary in this section, the provisions of F.S. § 180.135, shall apply to all portions of an environmental control bill if any portion of such bill includes fees and charges for water or wastewater services.

(d) When, as, and if the city no longer contracts with its franchisee to have the franchisee bill and collect the city's authorized fees and charges for some or all of the city's franchised solid waste or recovered materials services, the city shall collect such authorized fees and charges and shall remit periodically to the franchisee so much of such collections as the city receives, less the retained franchise fee and other charges and fees as may be agreed upon.

(e) The city provides certain solid waste and recovered materials services to property with such service being pursuant to contracts and terms as are authorized by ordinance from time to time. Any charges properly billed by the city for such services, if not timely paid, and together with all applicable interest or penalties or both, is a liability of the property, and of all of such property's owners (and their successors and assigns), and may become a lien against its value until paid in full. When assessed and levied by resolution of the city's governing body, this special assessment lien shall be prior to all other liens on such lands and premises except the lien of state, county, and municipal taxes and shall be on a parity with the lien of state, county and municipal taxes. The city shall be able to foreclose any such assessed lien in the same manner provided by law for the foreclosure of mortgages on real property, shall be entitled to recover its costs and a reasonable attorney's fee in all proceedings in connection therewith whether at trial or on appeal, and such lien shall additionally secure the recovery of such fees and costs. This subsection shall be in addition to all other rights and remedies the city may have to collect fees and charges for solid waste and recovered materials services.

(f) For some or all of the city's fees and charges for:

(1) The collection, processing, and disposal of solid waste; or

(2) Developing, implementing, and paying for the continuance of, a recovered materials program, or both, the city may use the non ad-valorem levy, collection, and enforcement method as provided for in F.S. ch. 197 upon complying with applicable procedures therein. This subsection shall be in addition to all other rights and remedies the city may have to collect fees and charges for solid waste and recovered materials services.

(g) The fees, rates, and charges set forth in the franchise agreement, and as may be authorized herein, may be adjusted in accordance with said agreement, or may be adjusted by a resolution of the city's governing body.

(Ord. No. 2387, §1, 6-13-2007)

#### **Sec. 10-7.5. Construction and demolition debris.**

(a) *Construction and demolition debris* means discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, 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, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris. The term also includes:

- (1) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;
- (2) De minimis amounts of other nonhazardous wastes that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

(b) Whenever a contractor holding a building permit or demolition permit does not provide, by using his own equipment, for the removing of construction, demolition or renovation debris, by a method other than the use of roll-off containers or whenever an occupied residential unit, including multifamily dwellings, does not provide, by using its own equipment, for the removal of construction, demolition or renovation debris by a method other than the use of roll-off containers, then the materials shall be deemed discarded and city solid waste collection and disposal franchisee shall have the exclusive right to remove such construction, demolition, and renovation debris through the use of roll-off containers within the city.

(c) Whenever a contractor holding a building permit or an owner of property collects or disposes of discarded construction and demolition debris by a means other than the city franchised collection and disposal of solid waste, a violation of this Code shall occur. The Code violation may be prosecuted in county court, by injunction, by code enforcement, or by any other means. Each removal from the site shall constitute a separate and independent violation. The city fine for each violation shall not exceed five hundred dollars (\$500.00).

(d) Construction and demolition debris are not recovered materials. However, if only metal, paper, glass, plastic, textile, or rubber materials are source separated from a commercial establishment construction area waste stream (see the definition of "source separated" (which generally means the aforementioned items must be separated from other construction and demolition site waste products, the aforementioned items can be mixed together, and the aforementioned items do not contain more than ten (10) percent of other types of solid waste) and see the definition of "commercial establishment") and are to be sold, used, or reused as raw materials, then such items are recovered materials and are not required to be removed by the city's solid waste franchisee notwithstanding anything to the contrary in this section. The solid waste franchisee may, however, once it becomes a registered recovered materials dealer pursuant to the provisions of this chapter, arrange for the removal of such aforementioned items with an owner or contractor of a commercial establishment construction area.

(Ord. No. 1872, § 1, 9-2-92; Ord. No. 2095, § 1, 7-31-96; Ord. No. 2299, § 2, 7-9-2003)

**Editors Note:** Section 3 of Ord. No. 1872, adopted Sept. 2, 1992, provides that the ordinance shall be retroactive to July 1, 1992.

#### **Sec. 10-8. Placing garbage or trash upon or in property of another.**

- (a) Any person generating or possessing garbage is obligated to dispose of such garbage as follows:
  - (1) If the party possessing or creating garbage is a resident of the city, such garbage is to be placed in appropriate receptacles or plastic liners on the property of the party possessing or generating the garbage or at the property line of the owner and in the event of street side collection, pursuant

to the city's franchise for garbage collection then in force and effect.

- (2) If the party possessing or creating garbage is a nonresident of the city and such party fails to obtain the prior express written consent of a party having garbage disposal privileges within the city, i.e., an occupant of a residence or the owner of a city local business tax receipt or an organization exempted from local business tax receipts conducting its affairs on property located within the city, it shall be presumed that such garbage is not disposable within the city and shall be taken by the party creating or possessing same to its residence or place of business for disposal in accordance with whatever regulations pertain to garbage disposal in its residence or principal place of business.

(b) It shall be unlawful for any person or business entity to place, or to allow, consent or procure the placement of, garbage created or possessed by the person or entity upon the property of another person or entity for disposal without the prior written consent of the person occupying the property upon which such garbage is placed for disposal.

(c) This section may be enforced as follows:

- (1) By proceedings before the code enforcement board;
- (2) By a prosecution of a municipal ordinance violation in the county court; and

(3) By any other means provided for by law.

(Ord. No. 1382, § 1, 3-5-86; Ord. No. 2379, § 5, 12-13-2006)

### **Sec. 10-9. Theft of recyclable materials, recycling containers.**

(a) *Definitions.* For the purpose of this section, the following terms shall have the meanings indicated in this section:

*Recycling containers* means the receptacles purchased and distributed by or on behalf of the city to city residents for their intended use as a receptacle of recyclable materials.

*Recyclable materials* means those materials which are capable of being recycled and which otherwise would be processed or disposed of as solid waste including newspapers, glass and plastic containers, aluminum cans, and such other materials as designated by resolution of the city council.

*Recycling plastic bags* means the plastic bags purchased and distributed by the city during its pilot recyclable program and thereafter to be purchased by the citizens of the city for the intended use as a receptacle of recyclable materials at nonmultifamily residences (single-family homes, townhouses, duplexes, and triplexes).

(b) *Unauthorized collection.* No person shall be permitted to remove either recycling containers, recycling plastic bags or recyclable materials placed in such recycling containers and bags, or from designated collection locations for such recyclable materials (presently, the city's trash disposal station and public works garage) unless previously authorized by the city.

(c) *Penalties.* A violation of this section shall be deemed a violation of the state resource and recovery management program and shall be punishable by a civil penalty as provided in section 403.141, Florida Statutes, (which includes a judicial imposition of a civil penalty for each offense in an amount of not more than ten thousand dollars (\$10,000.00) per offense).  
(Ord. No. 1667, §§ 1--3, 12-6-89)

**Editors Note:** Ord. No. 1667, adopted Dec. 6, 1989, did not specifically amend this Code; hence, inclusion of §§ 1--3 as § 10-9 was at the discretion of the editor.

**Secs. 10-10--10-19. Reserved.**

## ARTICLE II.

### RECOVERED MATERIALS; DEALER REGISTRATION

#### Sec. 10-20. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated.

*Calendar year* means January 1 through December 31.

*Certified recovered materials dealer* means a dealer certified under F.S. § 403.7046.

*Commercial establishments* means a property or properties zoned or used for commercial or industrial uses, or used by an entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and excludes property or properties zoned for single-family residential or multifamily residential uses.

*De minimis solid waste* [means] nonrecoverable materials (including solid waste) less than ten (10) percent by weight or volume, whichever is more restrictive, when compared to recovered materials.

*Designated recovery facility* means a facility licensed by the appropriate governmental entity to receive and process recovered materials.

*Fiscal year* means October 1 through September 30.

*Nonexclusive franchise* means the grant of permission by the city to use the public streets, roads, alleys and other thoroughfares to engage in the business of collecting, transporting, processing, or disposing of recovered materials.

*Person* means any and all persons, natural or artificial, including any individual, firm or association, partnership, joint venture or other entity of any kind, type, or description engaging in the conduct or activity with which this section is concerned.

*Recovered materials* means metal, paper, glass, plastic, textile, or rubber materials, that have known recycling potential, can be feasibly recycled and have been diverted and source separated or have been removed from the solid waste stream for sale, use or re-use 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.

*Registrant* means a certified recovered materials dealer who has registered with the city in accordance with the requirements of this article.

*Repeated violations* means three (3) separate and distinct occurrences which result in findings of violations of city ordinances or state laws within a twelve-month period of time.

*Source-separated* means the recovered materials that are separated from solid waste where the recovered materials and solid waste are generated. The term does not require that various types of recovered materials be separated from each other and recognizes *de minimis* solid waste, in accordance with industry standards and practices, may be included with recovered materials. Materials are not considered source separated when two (2) or more types of recovered materials are deposited in combination with each other in a commercial collection container located where the materials are generated and such materials contain more than ten (10) percent solid waste by volume or weight. For purposes of this subsection, the term "various types of recovered materials" means metals, paper, glass, plastic, textiles, and rubber.  
(Ord. No. 2299, § 1, 7-9-2003)

#### **Sec. 10-21. Registration process.**

(a) Any recovered materials dealer who engages in the purchasing, transporting, processing or collection of recovered materials at commercial establishments or is otherwise doing business in the city shall register on an annual basis with the city in accordance with the requirements of this section. The registrant shall submit an original and one (1) copy of all required information to the department of public works. The registration required by this section shall be in addition to and not satisfied by any local business tax receipt which may be required. Applications for registration required by this section shall be made to the city upon such form and in such manner as prescribed by the city.

(b) As a part of the application the recovered materials dealer must provide the following information:

- (1) Name and address of the dealer/registrant, including the identification of the owner, principal, or operator for the dealer/registrant (i.e., if the applicant is a business entity, its general partner or limited partners, its corporate officers and directors should be listed.) Any applicant that operates under a fictitious name shall submit information that such fictitious name is registered in the State of Florida and held by the applicant.
- (2) Its permanent place of business, and mailing address, if different;
- (3) A copy of the registrant's recovered materials certification under F.S. § 403.7046;
- (4) Certification that the recovered materials will be processed at a recovered materials processing facility satisfying the requirements of F.S. § 403.7046, as amended from time to time;
- (5) The location of the recovered materials processing facility(ies) to which the recovered materials taken from the city will be transported to.

- (c) Signatures; submission.
- (1) The registration and application for hauling recovered materials shall be signed by the individual submitting the application or, in the case of a corporation, by a corporate officer thereof or, in the case of a partnership or other association, by a member of the partnership or association. Provided, however, that for a publicly held corporation which has twenty-five (25) or more shareholders, the signatures of the local managing officer shall be sufficient. The completed registration shall be submitted to the director of the public works department.
- (2) An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal, state, and local law requirements.
- (3) A signed statement by the applicant as part of the process that the mixing of recovered materials with garbage or trash contaminates the product and renders it garbage or trash. In other words, garbage and trash shall not be mixed with recovered materials and shall be source separated.
- (d) Once it has been determined by the director of the department of public works, or his designee, that the registration application is complete, upon approval of the registration, registrants shall be entitled to operate through September 30 of each year from the date of issuance. Except as provided in the prior sentence, each registration shall be for the city's fiscal year (i.e., the period of October 1 through September 30 of each year).

(Ord. No. 2299, § 1, 7-9-2003; Ord. No. 2379, § 5, 12-13-2006)

### **Sec. 10-22. Reporting requirements.**

Any recovered materials dealer who is required to register under section 10-21 shall be required to provide the city with the following reports at the time of registration:

- (1) Registrant must provide to the city a copy of the annual recovered materials reporting form as submitted to the state department of environmental protection. The report shall include and identify the following:
  - a. The types and approximate amount of recovered materials collected from within the municipal limits of the city;
  - b. The types and approximate amounts of recycled materials collected from within the municipal limits of the city;
  - c. The types and approximate amounts of re-used materials collected from within the municipal limits of the city;
  - d. The approximate percentage of recovered materials collected from within the municipal city limits, which were re-used, stored, or delivered to a recovered materials processing

facility or disposed of in a solid waste disposal facility;

e. The locations where any recovered materials were disposed of as solid waste;and

f. List of clients within the city updated quarterly.

(2) To the extent that any information reported to the city would reveal a trade secret as defined in F.S. § 812.0811(c), such information shall be confidential and exempt from the provisions of section 24(a), article I of the State Constitution and F.S. § 199.07(1), in accordance with F.S. § 403.7046(3)(b).

(c) There is hereby imposed an annual dealer registration fee commensurate with and no greater than the cost incurred by the city in operating its registration program. The city expects its costs to fluctuate over time. Consequently, the fee shall be established by mayoral executive order, and may be adjusted by mayor executive order, on an annual basis after a review of the city's costs incurred for the preceding year and expected costs for the upcoming year. A copy of the mayoral executive order shall be sent to the city council. If any elected officer desires to discuss the new or changed fee, it will be agendized at the next reasonably available city council meeting. The council may promulgate a resolution imposing a different fee after a review of the cost information reviewed by the mayor, provided it determines that such fee will be commensurate with, but no greater, than the cost incurred by the city in operating its registration program. The registration fee shall cover a period of time equivalent to the registration period set forth in section 10-21(d) of this Code.

(d) No registration issued pursuant to this section may be assigned or transferred without prior written approval of the city and any change in control of the recovered materials dealer must be provided to the city within three (3) months of the date of the change of ownership.

(e) The annual reports shall be due by October 1 of each year, for the preceding July 1 to June 30 year.  
(Ord. No. 2299, § 1, 7-9-2003)

### **Sec. 10-23. Operating rules.**

The registrant shall observe the following rules and regulations when making collections, transporting or processing recovered materials within the city limits of the city of plantation:

(1) Vehicles used to transport recovered materials shall meet all applicable regulations of the Florida Department of Transportation and shall be capable of preventing spillage or accidental release of recovered materials during transport.

(2) The registrant shall only provide service to commercial property between the hours of 6:00 a.m. and 7:00 p.m.

(3) The registrant shall comply with all applicable federal, state and local laws, regulations and ordinances.

(4) Registrant shall conduct all collection, handling and processing of recovered materials in

accordance with the requirements of this section and the certification issued pursuant to Rule 62-722, Florida Administrative Code, as amended from time to time.

- (5) In no event shall the registrant perform commercial solid waste services under the guise of collecting, transporting, processing, or disposing of recovered materials.
- (6) Registrant shall provide a copy of its certification and registration to any commercial generator of recovered materials, the registrant's agents and contractors, or to customers who request such proof of registration.
- (7) If a code enforcement officer reasonably believes that there is more than ten (10) percent solid waste or any hazardous materials in a recycling container, the code enforcement officer shall post a notice on the container prohibiting the container from being removed from its location until the contents of the container have been emptied on the ground or into some other container for a more thorough inspection. If the inspector should reasonably believe that there are hazardous materials in the container, the inspector may order other actions which may be necessary to prevent the ground or other container from being contaminated.
- (8) Registrant shall jointly be responsible with the property owner to maintain and insure the cleanliness of the recovery points and shall not litter or allow debris to remain on site in the area of the collection point.
- (9) The registrant shall not pick up recovered materials from commercial establishments which have not been source separated at the commercial establishment.

(Ord. No. 2299, § 1, 7-9-2003)

#### **Sec. 10-24. Recovered materials generally.**

(a) No recovered materials dealer or any person or entity may engage in the purchasing, transporting, or processing of recovered materials at or for establishments which are not commercial establishments, if to do so would contravene a municipal franchise approved by the city council. As of January 1, 2003, the city has a franchised noncommercial establishment recycling program for newspapers, aluminum, glass, and plastic items.

(b) No recovered materials dealer or any person or entity may engage in the purchasing, transporting, or processing of recovered materials at commercial establishments without complying with the registration and reporting requirements of this article. The city has not and will not exclusively franchise this type of service as to do so would contravene Florida law which was in effect when this section was ordained.

(c) All recovered materials at or by a commercial establishment must be source separated at the site of the commercial establishment.

(Ord. No. 2299, § 1, 7-9-2003)

#### **Sec. 10-25. Solid waste service level change.**

- (a) The city franchise agreement for the collection and disposal of solid waste provides minimum

levels of service that are required. However, in section 22 of the franchise agreement the city may authorize an increase or decrease to this minimum required franchise service and determine the solid waste service level (including the size of container for solid waste customers and frequency of pickup) after considering the impact of the change on the contractor's economies of routing and service (both by itself and given previous service adjustments), past history of waste, the current type of business and waste, past and current waste generation rates, the likelihood of litter and odor, and similar factors. The city's franchise prevents the solid waste franchisee from providing a change in container size or frequency of pickup, or other solid waste service without receiving written permission from the city, and further provides that requests for a change in solid waste service shall be evidenced in a service change request form in a format acceptable to the city which shall be submitted to the solid waste franchisee. This procedure should better enable the city to account for and collect franchise fees that may be due to the city and to prevent adverse secondary effects of solid waste collection areas. The customer and solid waste franchisee should attempt to agree on service levels prior to submitting a service change request form to the city. The service change request form must be submitted to the city for approval within three (3) work days of receipt of the form by the franchisee. If the request is to be approved, the city must approve the request in writing and shall provide the franchisee with such written approval within ten (10) work days of receipt of the request from the contractor, unless such deadline is extended by the mayor or his or her designee. If approval is not given, the request shall be deemed denied. The city's determination will be final, and the city may condition its approval such that if conditions are not met continuously, the approval may be revoked.

(b) No customer of franchised solid waste collection and disposal service can change its solid waste service (including but not limited to the container size or frequency of collection) without a service change request form being approved by the city. Furthermore, once a service change request form has been considered by the city, the city will not be required consider another service change request for the same customer and for the same property for a six-month period of time.  
(Ord. No. 2299, § 1, 7-9-2003)

#### **Sec. 10-26. Fines and violations.**

(a) First violation of any of the terms and conditions of this article will result in a fine of two hundred fifty dollars (\$250.00).

(b) Second violation of the terms and conditions of this article will result in a fine of five hundred dollars (\$500.00).

(c) Third violation of any of the terms and conditions of this section will result in revocation of the recovered materials dealer's authority to do business with the city.

(d) A violation of applicable state statutes, or state agency rules and regulations may be cause for revocation of the recovered dealer's authority to do business within the city.  
(Ord. No. 2299, § 1, 7-9-2003)

#### **Sec. 10-27. Enforcement.**

Individual violations of this article may be prosecuted through the city's code enforcement process as set forth in chapter 6 with penalties as described therein. The public works director may revoke a registration for

repeated violations as aforementioned and may immediately declare the authority of the business the dealer to do business within the city as being revoked. If the public works director shall decide to revoke the right to do business, they will provide the dealer with notification of such revocation and the reasons therefore. Such notice shall be sent certified mail, return receipt requested. Upon receipt of such notice, the dealer may appeal to the city board of adjustment and the only hearing thereon shall be conducted in accordance with the following procedures:

- (1) Should a hauler seek appeal from the revocation of the registration, the applicant shall furnish notice of such request for appeal to the city clerk no later than twenty (20) calendar days after the date of receipt of the certified letter advising applicant of revocation of the franchise.
  - (b) Upon receipt of a request for appeal, the city clerk shall thereupon fix the date and time at which the city board of adjustment shall hear the appeal, such hearing to be held not less than ten (10), nor more than sixty (60) calendar days subsequent to the date upon which such request for appeal was filed with the city clerk.
  - (c) Upon setting the matter for hearing, the city clerk shall notify the applicant of the date and time of such hearing.
  - (d) At the conclusion of the hearing, the city board of adjustment shall either sustain the decision of the public works director or direct the public works director to issue a franchise.
  - (e) Pending the outcome of the appeal, the revocation of registration shall be stayed.
  - (f) Nothing in this section shall prohibit the city from enforcing this section by other means.
- (Ord. No. 2299, § 1, 7-9-2003)