

## ARTICLE VII. SOLID WASTE MANAGEMENT\*

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**\*Editor's note:** Ord. No. 6391-99, § 1, adopted March 4, 1999, amended Art. VII, in its entirety. Formerly, said article pertained to similar subject matter. See the Code Comparative Table.

**Cross references:** Littering, § 20.02; unlawful deposits of refuse and trash in parks, § 22.28; public health, ch. 23; garbage and refuse to be stored in receptacles, § 23.26; housing code, ch. 49.

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### DIVISION 1. GENERALLY

Sec. 32.271. Entire system a unified public utility.

The solid waste management system of the city, which includes refuse service and recycling services, are combined to form a unified public utility for the use and benefit of the city in the maintenance of public health, welfare and sanitation throughout the city.

(Code 1980, § 54.01; Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99)

Sec. 32.2715. Definitions.

As used in this chapter:

- (1) *Commercial container* means any container approved by the solid waste/general services department and serviced by a commercial collection vehicle.
- (2) *Commercial establishment* means a property or properties zoned or used for commercial or industrial uses, or used by an entity exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. The term excludes property or properties zoned or used exclusively for single-family residential or multi-family residential uses of four units or less.
- (3) *Compactor* means any mechanical hydraulic or electrical machine designed and used specifically for compacting refuse or recyclables.
- (4) *Compacted* means refuse condensed by a compactor.
- (5) *Construction debris* means discarded building materials and rubble including but not limited to earth, cement, brick, wire, cans, flooring materials, lumber, plaster, roofing materials and any other waste resulting from construction, remodeling, repair or demolition of any structure or pavement. Such construction debris may be either commercial or residential in character. A collection of solely tree trimmings and vegetative remains resulting from site work or land clearing is not considered construction debris for purposes of this definition; however, if mixed with construction debris, the entire collection of material is considered construction debris.
- (6) *Containerized service* means collection of solid waste or recyclables in city-approved containers.
- (7) *Contamination* means when more than de mininis non-recyclable items (such as trash, food waste, glass, putrescible garbage) are included with recyclables, or when two or more different types of recyclables are commingled in a container intended for one.
- (8) *Customer* means owner, occupant, tenant, or other person having control of the improved real property.
- (9) *Eviction or move-out refuse* means any refuse that is left for collection resulting from an eviction or a move-out.
- (10) *E-waste* means inoperative or discarded electronic equipment including, but not limited to televisions, computer CPUs, monitors and peripherals, and handheld and desktop telecommunications equipment.
- (11) *Hazardous material* means material which is radioactive, volatile, flammable, explosive, infectious, toxic or otherwise hazardous, including but not limited to material designated as hazardous in any Federal, Florida, Pinellas County, or Clearwater law or ordinance; also that waste which is determined to be hazardous by the United States Environmental Protection Agency, or any other federal agency.
- (12) *Late payment* means any payment remitted after the required due date.

- (13) *Materials recovery facility* means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.
- (14) *Putrescible waste* means household or commercial solid waste that will putrefy.
- (15) *Recovered materials* means metal, fiber, 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 reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials are not solid waste.
- (16) *Recovered materials dealer* means any person or entity who handles, purchases, receives, recovers, sells, or is an end-user of recovered materials.
- (17) *Recovered materials processing facility* means a facility engaged solely in the receiving, storage, processing, resale or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the definitions of F.S. § 403.7045(1)(f).
- (18) *Recyclable* means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.
- (19) *Recycling* means the collection, processing, marketing, reprocessing and resale or reuse of any material which would otherwise be processed or disposed of as solid waste.
- (20) *Recycling bin* means any container issued by the city for the purpose of recycling.
- (21) *Refuse* means all putrescible and non-putrescible solid waste.
- (22) *Residential refuse container* means a city issued automated container and/or a city-approved 32-gallon container or other container approved by the director of solid waste/general services.
- (23) *Roll-off container* means any large capacity container used for commercial or industrial service, or for special purposes, including but not limited to, containers with capacities between ten and 40 cubic yards and which are transported with their contents by vehicle to a solid waste disposal site.
- (24) *Servicing* means any interaction with solid waste/general services with regards to including, but not limited to, installing cleaning, deodorizing, pulling, removing, or repairing damage to waste receptacles
- (25) *Solid waste* means sludge not regulated under the Federal Clean Water Act or Clean Air Act; sludge from a waste treatment works, water supply treatment plant, or air pollution control facility; or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. The term does not include recovered materials as defined in this section or in F.S. § 403.703(7).
- (26) *Solid waste/general services director* means the person authorized to exercise and enforce the provisions of this article.
- (27) *Solid waste management* means the process by which solid waste is collected, transported, stored, separated, processed or disposed of according to an orderly, purposeful and planned program which includes closure and long-term maintenance.
- (28) *Solid waste management facility* means any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility or other facility, the purpose of which is resource recovery or the disposal, recycling, processing or storage of solid waste. The term does not include recovered materials processing facilities which meet the requirements of F.S. § 403.7046(4), except the portion of such facilities, if any, that is used for the management of solid waste.
- (29) *Source-separated* means that recovered materials 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 that de minimis solid waste, in accordance with industry standards and practices, may be included in the recovered materials.
- (30) *Special wastes* means solid waste that can require special handling and management, including, but not limited to, white goods, waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, e-waste, paint, and biological wastes.
- (31) *Trash* means any waste accumulation of paper, sweepings, rags, bedding or other matter of any kind, other than garbage, which is usually attendant to housekeeping, except recyclables.

(32) *Waste receptacle* means any vehicle or container, but is not limited to trailers, roll-off containers, compactors or any other functionally equivalent containers, used to collect, transfer or haul solid waste or construction debris from one location to another.

(33) *White goods* means inoperative and discarded refrigerators, ranges, water heaters, freezers and other similar domestic and commercial large appliances of any color.

(34) *Yard waste* means vegetative matter resulting from landscaping and maintenance.

(Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 5506, § 1, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09; Ord. No. 8131-10, § 1, 2-18-10)

#### Sec. 32.272. Collection by city; exceptions.

(1) *Generally.* All refuse accumulated in the city shall be collected, conveyed and disposed of by the city government. Following receipt and referral by the city council of annexation petitions, the city shall, upon request by the petitioners, collect refuse accumulated on properties being annexed by the city. Any residential, commercial, or industrial property within the city that is being constructed, is occupied, or is capable of being occupied, shall be presumed to be generating solid waste for collection.

(2) *Exception for commercial establishments.* This chapter shall not prohibit the actual producers of solid waste or the owners of premises upon which solid waste has accumulated, from personally collecting, conveying and disposing of such solid waste provided such producers or owners comply with the provisions of this chapter and with all other governing laws and ordinances. This paragraph shall not be construed to provide for or as allowing collection by subcontract. An owner or producer of refuse or recyclable materials may sell or donate these materials but may not enter into any disposal agreement whereby the owner or producer pays for the use of the container or for hauling.

(3) *Exception for outside collectors.* This chapter shall not prohibit solid waste collectors from outside of the city from hauling such solid waste over city streets prescribed by the director of public works provided such collectors comply with the provisions of this chapter and all other governing laws and ordinances.

(4) *Exception for private collectors with roll-off containers, compactors or waste receptacles.* A private collector currently holding or eligible to obtain a city-issued permit for placing and servicing roll-off containers, compactors, or waste receptacles for sites generating construction debris or commercial establishments generating putrescible waste, may acquire such permit or continue renewing such permit to legally provide said service only until February 18, 2013, or three years from the date of adoption of Ordinance 8131-10, whichever is later. After the aforementioned deadline, permits shall only be issued to private collectors that are able or willing to collect, remove or dispose of a particular type or volume of refuse, only after the city has first determined that it is unable to service such type or volume of refuse; or for such private collectors that only service individual trailers or other similar rubber tire vehicles that are no larger than 15 cubic yards. Moreover, the city may honor an existing private refuse contract for existing development which annexes into the city for the remainder of the contract term or for five years from the date of annexation, whichever is shorter.

(5) *Exception for bulky items.* The city has the right to refuse garbage service of any unusual or extremely bulky item or to require the owner or producer of waste to reduce it to such size and weight as can be handled by city equipment.

(Code 1980, §§ 54.02, 54.09(b); Ord. No. 5321, § 1, 12-17-92; Ord. No. 5519-94, § 1, 2-17-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09; Ord. No. 8106-09 § 1, 10-22-09; Ord. No. 8131-10, § 2, 2-18-10)

#### Sec. 32.273. Director of solid waste/general services; powers; appeals from action.

(1) All solid waste and recyclables accumulated in the city shall be collected, conveyed, and disposed of or otherwise managed by the city under the supervision of the director of solid waste/general services.

(2) The director of solid waste/general services shall have the authority to establish the type of container, the frequency of collection, location of container, amount of solid waste and recycling collection or disposal service needed, so long as such change does not fall below any minimum standards set forth by federal and Florida law or local ordinance.

(Code 1980, § 54.03; Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.274. Unlawful practices generally.

It is hereby declared unlawful and a violation of this chapter for any person to do or permit to be done any of the following acts or practices:

- (1) To deposit on or bury in, or cause to be deposited in or buried in, any property, public or private, and any street, alley, the waters of Clearwater Bay, or any creek, watercourse, storm sewer, or ditch within the corporate limits of the city, any solid waste or other noxious, malodorous or offensive matter;
- (2) To fail or neglect to keep or cause to be kept clean and sanitary or tightly covered and in good state of repair all containers and trash receptacles;
- (3) To place or allow to be placed upon the streets, alleys, curbs, bicycle paths or sidewalks of the city any rubbish, sweepings, debris, trash or waste materials of any kind, which constitutes a menace to traffic, both vehicular and pedestrian, or a health or aesthetic problem, or which impairs the proper operation of the city's sewer or drainage system;
- (4) To remove recyclables or any marketable materials from solid waste placed out for collection. Such an act is declared "scavenging" and is punishable by a fine of \$500.00 per incident. An incident is deemed to be the removal of such materials for a single premises;
- (5) To dispose of any paint, hazardous material, acid, explosive material, inflammable liquids, burning substance or any dangerous or highly corrosive material, used oil or biohazardous wastes in any refuse container which might be detrimental or harmful to any person or persons. The city will not be responsible for the collection or disposal of these materials or of special industrial wastes. Damage to city-owned containers as a result of the above will be repaired at the expense of the user;
- (6) To place or deposit or cause to be placed or deposited upon any of the streets, sidewalks, parkways, thoroughfares, public parks, or other public places of the city, any tree trunks or limbs, any trash, debris, papers, litter, solid waste, or other discarded matter of whatever kind, except as specifically provided within the rules and regulations;
- (7) To bring any solid waste into the city from outside the city limits, or transfer solid waste originating from one party to another party within the city, for the purpose of collection and removal by solid waste/general services; or
- (8) It shall be unlawful for any third party or contractor to create or leave construction debris, yard waste or refuse subsequent to the performance of any work on private property for the city to collect. No materials from such operations shall be placed in any residential container, commercial container, waste receptacle or set out curbside for collection by the city without prior authorization by the solid waste/general services director.

(Code 1980, § 54.08; Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09; Ord. No. 8106-09, § 1, 10-22-09)

**Cross references:** Streets, sidewalks and other public places, ch. 28; waterways and vessels, ch. 33.

Sec. 32.275. Prohibited materials.

- (1) *Building materials.* Except for roll-off container or waste receptacle services, the city shall not be responsible for the collection of dirt, rock, sod, plaster, lumber, metal or other construction or building material originating from private property preliminary to, during or subsequent to the construction of new buildings, or alterations or additions to existing buildings. Such material shall be removed by the owner of the property or by the contractor. No certificate of occupancy shall be issued until such material has been removed by the owner or contractor.
- (2) *Inflammable or explosive materials.* Highly flammable or potentially explosive materials or toxic substances shall not be placed in containers for regular collections, but shall be disposed of as directed by the director of solid waste/general services at the expense of the owner or possessor thereof.

(3) *Prohibited materials.* Biohazardous waste, flammable liquids, motor oil, pesticides, herbicides and other hazardous materials shall not be placed for collection, and shall not be collected by solid waste personnel.

(Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.276. Enforcement.

The director of solid waste/general services is authorized to exercise limited police powers to enforce the provisions of this chapter. These limited police powers shall include the authority to issue a notice of violation of a provision of this chapter and, following a reinspection after the time specified in the notice for corrective action, if there has not been substantial compliance with the notice of violation, or if the violation has been corrected but reoccurs, the director of solid waste/general services may cause a summons to be issued by a sworn police officer, code enforcement officer, or designated solid waste/general services employee of the city for appearance in county court, or may notify the code enforcement board and request a hearing pursuant to section 7-102 of the Clearwater Community Development Code. A notice of violation shall describe the nature of the violation, the corrective action necessary to cure the violation, and the time within which corrective action shall be taken. A notice of violation shall be served in the manner set forth in F.S. § 162.12.

Personnel authorized by the city manager or designee as code enforcement officers or solid waste personnel are hereby designated as the investigating and enforcing authority pursuant to this article. The code enforcement officers or solid waste personnel are authorized and directed to receive all complaints, make inspections to determine if a violation of this article exists, gather all relevant information concerning such complaints, conduct field investigations and inspections of real property, and enter upon real property, with or without a warrant as required by law, in the conduct of official business pursuant to this article.

It shall be unlawful for any person to interfere, harass, or otherwise impede city code enforcement officers or solid waste personnel who are carrying out or acting within the scope of his/her duties. A law enforcement official shall have the authority to arrest an individual in violation of Article VII.

(Code 1980, § 54.12; Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.277. Penalties.

(1) Any person or entity found to be in violation of the provisions of this article shall be prosecuted as provided in section 1.12.

(2) Imposition of a penalty or fine does not prevent the appropriate city designee from proceeding or from revoking or suspending a license or permit.

(3) In addition to the penalties provided in subsection (a) of section 1.12, any condition caused or permitted to exist in violation of any of the provisions of this Code can be deemed a public nuisance, and may be abated by the city as provided by law. If action to remedy the condition is taken by the city, the actual costs of such action plus administrative costs of up to \$200.00 shall be owed by the owner to the city and shall constitute a lien against the property until paid.

(4) If a customer has not removed extra or nonconforming solid waste or other industrial waste, hazardous waste or noncombustible refuse within 24 hours after notification by solid waste, the director of solid waste/general services may order such removal and all costs incurred shall be placed against the customer's utility account.

(5) Failure to remove a container tagged with a warning by the solid waste/general services department within the specified period of time subjects the customer to a fine of \$10.00 per day, which is placed on the customer's utility bill. Repeat offenders, at the discretion of the director of solid waste/general services, may be placed on side or rear yard premium service at the appropriate fee.

(6) In the event a roll-off container or waste receptacle becomes a danger or nuisance, the roll-off container or waste receptacle shall be impounded and owner given notice, if reasonably possible, and owner shall be responsible for claiming such roll-off container or waste receptacle at owner's own expense as detailed in subsection (7).

(7) Roll-offs containers and/or waste receptacles located on city property and/or rights-of-way that are not registered shall be hauled to a city site and an initial fee of \$300.00 and a \$50.00 a day storage fee shall be assessed against the owner of such equipment. If such equipment is not recovered after 30 days, after the city has gone through reasonable efforts to provide the owner notice, then such equipment may be disposed of.

(8) Roll-off container and/or waste receptacle permittee shall incur a one percent penalty charge on the total amount of remittance, as specified in Appendix A of this code and referred to in section 32.290(2)(b) of this division, for every month that the remittance is past due. Furthermore, permittee shall incur a one percent penalty charge on the total amount of remittance for every month that the permittee fails to provide invoice copies and monthly service reports, as required by section 32.290(2)(b). Failure to comply with the permit submission requirements may result in revocation or denial of issuance or renewal of a permit.

(Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.278. Service fees and charges.

(1) The fact that any place of abode or any place of business is occupied shall be prima facie evidence that refuse is being produced and accumulated upon such premises and that fees for the collection and disposal thereof are due the city.

(2) See Appendix A for solid waste management system deposits, fees, service charges, and rate schedules.

(3) The solid waste collection and disposal charges are applicable until all municipal utilities including lawn (water) meters are disconnected.

(4) For accounts payable, see section 32.066.

(5) Additional service charges may be levied at the discretion of the director of solid waste/general services.

(Code 1980, § 54.07(a)--(c); Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.279. Duty of property owner to supply receptacle; exception.

It shall be the duty of all owners of residences, businesses, professional offices, and other commercial establishments in the city to supply each of such establishments with waste receptacles except where furnished by the city.

(Code 1980, § 54.09(a); Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.280. Duty of property owner; precollection practices.

(1) *Preparation of solid waste.*

(a) *Garbage.* All garbage shall be drained of liquid and shall be wrapped or bagged in paper or plastic before being placed in any container for collection.

(b) *Trash.* All trash shall be drained of liquid before being deposited for collection.

(c) *Recyclables.* Recyclables shall be prepared for collection in accordance with existing policies that the city provides.

(d) *Yard waste.* Loose yard waste shall be placed inside a container, other than the city-issued container, approved by the city and placed at curbside, separate from other trash. Such containers shall not be filled above the rim of the container. Single articles such as palm fronds, tree branches and limbs shall be cut or broken into pieces which are less than four inches in diameter and four feet long and shall be stacked at curbside for collection. It shall not be the responsibility of the solid waste personnel to clean up de minimis debris resulting from standard collection.

(e) *Scrap metal and appliances.* Scrap metal and appliances shall be placed at the curb for recycling collection separate from other trash. Freezers, refrigerators, clothes washers, clothes dryers, dishwashers or similar airtight units shall have the doors removed or secured before being placed for collection. All stand-up items shall be laid flat. Scrap metal such as poles, pipes and antennas shall be cut or bent into pieces not longer than six feet.

(f) *Crates and cardboard boxes.* Crates and cardboard boxes shall be collapsed prior to being placed for collection.

(g) *Dangerous material.* All dangerous material collected manually such as broken glass, light bulbs, and razor blades shall be deposited in a disposable container and placed at curbside for collection.

(h) None of the above may be placed out prior to 24 hours in advance of a scheduled pick-up.

(2) *Containers.*

(a) *Duty to provide and maintain in sanitary condition.* Except in the case of containers provided by the city, all containers shall be provided by the owner, tenant, or occupant of the premises. Containers shall be maintained in good condition and shall be subject to inspection and approval of conditions by city code enforcement inspectors and others having jurisdiction. Routine maintenance of cans, carts, and waste receptacles in a sanitary manner is the responsibility of the user. Any container that does not conform to the provisions of this chapter or that may have ragged or sharp edges or any other defect liable to hamper or injure the person collecting the contents thereof, shall be promptly replaced by the customer upon written notice by the city. The director of solid waste/general services shall have the authority to discontinue collection service for failure to comply. In the event of damage to a container provided by the city caused by a user of the container, the cost of repair or replacement shall be charged to the customer's account.

(b) *Specifications.* Containers shall be made of durable plastic or metal, equipped with suitable handles and tight-fitting covers, and shall be watertight. Except in the case of containers provided by the city, each container shall have a capacity of not more than 32 gallons, and shall weigh not more than 60 pounds when full.

(c) *Commercial trash bins.* No commercial trash bins or trash rooms shall be used without written permission of the director of solid waste/general services. No existing bin shall continue to be used, and no new bin shall be permitted for use, unless it is completely enclosed and watertight.

(d) *Commercial containers.* Containers shall be of such size and shape as to be capable of being lifted and emptied into city collection vehicles. Commercial front end containers provided by the owner and used in conjunction with compactors shall first be approved by the director of solid waste/general services, such approval to relate to the ability of the city to service such equipment.

(3) *Storing of solid waste.*

(a) *Public places.* No person shall place any solid waste in any street, alley or other public place or upon any private property whether owned by such person or not, unless it is in containers for collection. No person shall place any solid waste at the curb for collection except on his or her property, and such placement shall be behind the curb or where the curb should be. Any person having a corner lot may use the side yard curb, subject to the director of solid waste/general services' approval. No person shall throw or deposit any solid waste in any ditch, stream or body of water.

(b) *Unauthorized accumulation.* Any unauthorized accumulation of solid waste on any lot or premises is hereby declared to be a nuisance and is prohibited. Failure to remove any accumulation of solid waste following notice to the owner or tenant and a reasonable opportunity to take corrective action shall be deemed a violation of this chapter.

(c) *Reserved.*

(d) *Commercial establishments.* All commercial establishments shall secure solid waste accumulated upon the premises so as to eliminate wind-driven debris and unsightly litter conditions in and about the establishment.

(e) *Public parking lots.* All public parking lots shall be provided with containers in sufficient quantity so that there shall be at least one container for every 50 parking spaces. This requirement shall apply to parking lots with a capacity in excess of 25 spaces. It shall be the responsibility of the owner or the manager of the parking lot to collect the material deposited in the containers and deposit the material in a container for collection. As used in this subsection the term "public parking lot" shall mean a privately owned lot open to the general public.

(f) *Construction sites.* All construction sites shall use city-approved waste receptacles, the number of which shall be determined according to the size of the job at the discretion of the director of the building division. Construction sites shall be kept clean and orderly at all times and the building director may suspend or red tag a construction job until the premises are brought up to a satisfactory sanitary condition. Any waste

receptacle used to collect refuse that is not supplied by the city shall be required to be registered with the director of solid waste/general services.

(4) *Waste receptacles, compactors, roll-off containers and baling machines.*

(a) *Registration.* Prior to the placement of compactors, roll-off containers, waste receptacles, and baling machines such equipment shall be registered with the director of solid waste/general services.

(b) *Storage of compacted trash.* Compacted cardboard, trash or by-products thereof as described in this section which have been compacted into bales shall be stored in fireproof structures or buildings at all times unless awaiting transport to ultimate disposal.

(c) *Transporting compacted or roll-off trash.* No person shall transport compacted trash or recyclable materials, collected within the City of Clearwater, over streets and roadways in the corporate city limits without prior registration with the director of solid waste/general services.

(Code 1980, § 54.04(a), (b), (c)(1), (3)--(6), (d), (e); Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

**Cross references:** Streets, sidewalks and other public places, ch. 28; traffic and motor vehicles, ch. 30; buildings and building regulations, ch. 47.

Sec. 32.281. Duty of property owner; collection practices.

(1) *Frequency of collection.*

(a) *Residential and small businesses.* Solid waste accumulated by residences and small businesses shall be collected twice each week on regularly scheduled days except Saturdays, Sundays and holidays.

(b) *Commercial.* Motels, hotels, restaurants, supermarkets, hospitals, schools and other establishments may have daily collection services to fit their respective needs at the regular rates charged. Where necessary to protect the public health, the director of solid waste/general services or an authorized health department official may require more frequent collections.

(c) *Special collections.* Restaurants and all other establishments having putrescible waste shall be collected, at minimum, once a week. If the waste becomes offensive in odor or becomes a nuisance, it shall be collected as often as deemed necessary to address the offensive odor or nuisance, at the discretion of the director of solid waste/general services.

All waste receptacles within the city limits that contain putrescible refuse shall, at the discretion of the solid waste/general services director, be required to have a minimum of one collection per week.

(2) *Collection locations.*

(a) *Curbside pickup.* Solid waste containers shall be placed for collection on the ground at the curbline, immediately in front of and contiguous to owner's property and at least ten feet away from any permanent structure or vehicle and cannot obstruct pedestrian passage. Solid waste containers shall be placed for collection at ground level on the property, not within the right-of-way of a street or alley, and shall be accessible without entering into a building or shelter of any type. Exceptions may be granted with the approval of the director of solid waste/general service.

(b) *Handicapped and elderly.* Any person who has been certified by a physician as being unable to place a solid waste container at the curb shall be entitled to have the solid waste collected at the side or rear of the building at no extra charge.

(c) *Side or rear yard premium service.* A fee as stated in Appendix A will be charged to customers who wish to have the containers pulled out and placed back for them by solid waste personnel.

(3) *Container placement and removal.*

(a) Residential refuse and/or recycling containers and yard waste placed near the curb, street or alley shall be placed there no earlier than 7:00 p.m. on the evening preceding the collection day and must be removed to a point at the side or rear of the structure by 7:00 a.m. of the following day. Any container not removed will be tagged by the solid waste/general services department with a warning. Second violators will be subject to a fine of \$10.00 per day, which will be placed on the customer's utility bill. Repeat offenders will be placed on side or rear yard premium service at the stipulated rate.

(4) *Eviction/move out refuse.* The property owner shall be responsible for time and material charges as stated in Appendix A for any refuse clean up resulting from an eviction or move out.

(Code 1980, § 54.05; Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.282. Yard waste/bulk collections.

(1) It is the responsibility of all tree surgeons, nurseries, lawn care services and landscaping contractors, or any individual or company doing work on private property, to remove from the premises all residue and rubbish resulting from said work. Failure to comply will result in a fine in the amount of not less than the existing cost for removal plus an administrative fee not to exceed \$200.00, for the first infraction. A second infraction may result in the loss of the occupational license.

(2) All white goods' doors must be removed or secured before being set out for collection.

(3) Items for collection should be placed out no earlier than 24 hours in advance of a scheduled pick-up and should not present a health or safety hazard to the general public.

(Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.283. Littering/illegal dumping.

(1) It is illegal to dump any solid waste other than by the defined methods in this Code. Illegal dumping may lead to investigation and prosecution.

(2) Littering. No person shall throw, place, or deposit any solid waste in any ditch, stream or body of water or anywhere within the city in such a manner that it may be carried or deposited by wind or rain upon any street, sidewalk, alley, sewer, parkway or other public place, or into any occupied premises within the city.

(Ord. No. 6391-99, § 1, 3-4-99)

Sec. 32.284. Waste receptacle.

(1) *Enclosure required.*

(a) Customers who receive containerized service and who are not subject to the requirements of paragraph 5 subsection (b) of this section shall meet the following requirements with respect to waste receptacle enclosures.

(b) The enclosure will be constructed and maintained in such a manner as to ensure that the waste receptacle is not visible from ground level.

(c) The enclosure shall have a gate that is of sufficient width so that the waste receptacle is easily accessible by a front-end loading refuse collection truck. Said truck requires 12 feet of unobstructed access.

(d) The base of the enclosure shall contain a six-inch-thick reinforced concrete pad of a size suitable for the waste receptacle in use at that location.

(2) Those customers whose site receives containerized service and whose use of or improvement to the service site requires site plan approval or approval of minor change of use, shall also comply with the rules and regulations regarding enclosure dimensions, materials, location, and other physical attributes, as may be promulgated and amended from time to time by the director of solid waste/general services.

(3) Every customer who receives containerized service shall assume all risk and shall indemnify, defend, and save harmless the City of Clearwater from and against all loss, damage, cost or expense for the enclosure which is not due to the negligence of the City of Clearwater.

(4) No final building inspection shall be undertaken nor certificate of occupancy issued for any site which has not complied with the enclosure requirements contained in this section.

(a) Any residential customer obtaining service for any multiple-family residence, and who is not otherwise subject to the requirements of section 32.321, shall provide an enclosure for recycling containers. These recycling enclosures shall be located so that the recycling containers are easily accessible by the residents, and by the refuse collectors, using front-end vehicles. The enclosures shall be constructed so that the recycling containers are not visible from any public right-of-way. In addition, the director of solid waste/general services or designee shall have the authority to review the proposed location and construction of such enclosures to ensure that they meet the criteria of this section, and also to ensure that any applicable building and safety code provisions are complied with.

- (5) The solid waste/general services director shall have the authority to waive some or all requirements of this section, except those relating to accessibility and location, in those cases in which the customer demonstrates that:
- (a) The waste receptacle or recycling container would not be visible at ground level from any adjacent right-of-way or property, due to the existence of walls, fences, or other screening on site in compliance with this Code; or
  - (b) Enforcement of this section would result in extreme hardship.
- (6) All enclosures are required to be constructed in accordance with the City of Clearwater specifications.
- (7) Placement of containers. Subscribers or private collectors authorized to provide services under this article shall not place any container or receptacle for solid waste or recycling outside of any building or structure without first having obtained permission from the city approving location of such container. (Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.285. Collection and disposal by commercial establishments, private individuals and outside collectors.

(1) *Requirement for vehicles.* All transported refuse shall be containerized or tarped, and vehicles used for hauling shall be licensed by the city and approved by the director of solid waste/general services. The actual producers of solid waste or the owners of premises upon which solid waste is accumulated who desire personally to collect and dispose of such solid waste, persons who desire to dispose of waste material not included in the definition of solid waste and solid waste collectors from outside of the city who desire to haul solid waste over the streets of the city, shall use a watertight vehicle provided with a tight cover and shall operate the vehicle so as to prevent offensive odors escaping and materials from being blown, dropped or spilled.

(2) *Rules and regulations.* The director of solid waste/general services shall have the authority to adopt reasonable and necessary regulations concerning private collection and disposal and the hauling of solid waste over city streets by outside collectors.

(Code 1980, § 54.06(a), (b); Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

**Cross references:** Traffic and motor vehicles generally, ch. 30.

Sec. 32.286. Incinerators.

No incinerators shall be permitted within the city.

(Code 1980, §§ 54.06(c), 54.07(d); Ord. No. 5321-92, § 1, 12-17-92; Ord. No. 6391-99, § 1, 3-4-99)

Sec. 32.287. Landfills.

No landfills shall be allowed to operate in the city without the approval of the city, county, and state authority.

(Code 1980, § 90.02; Ord. No. 6391-99, § 1, 3-4-99)

## DIVISION 2. PERMIT FOR ROLL-OFF CONTAINER AND/OR WASTE RECEPTACLE SERVICE\*

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\***Editor's note:** Ord. No. 8025-09, § 1, adopted June 18, 2009, amended the title of Division 2 to read as herein set out. Prior to inclusion of said ordinance, Division 2 was entitled, "Permit for Roll-off Container Service."

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Sec. 32.288. Required.

Pursuant to section 32.272(1), it shall be unlawful for any party, other than the city, to engage in the business of collecting, removing, or disposing of construction debris, whether commercial or residential in nature, or

putrescible waste generated by commercial establishments. However, a sole proprietor or corporate entity placing or servicing a roll-off container or waste receptacle for the purpose of collecting, removing or disposing of construction debris, whether commercial or residential in nature, or putrescible waste generated by commercial establishments shall be required to procure a permit to legally continue such business activity without penalty, and hereinafter be known as permittee, only under the following circumstances: (1) when a new permittee or a renewing permittee satisfies all permit application requirements in section 32.289; however, such permittee takes permit understanding that it will continue to provide said service only until February 18, 2013, or three years from the date of adoption of Ordinance 8131-10, whichever is later; (2) a permit may be issued when, pursuant to section 32.293(3), the city first determines that it is unable or unwilling to collect, remove or dispose of a particular type or volume of refuse; or (3) a permit may be issued to a sole proprietor or corporate entity that only services individual trailers or other similar rubber tire vehicles that are no larger than 15 cubic yards.

(Code 1980, § 54.20; Ord. No. 5219, § 1, 9-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09; Ord. No. 8106-09, § 1, 10-22-09; Ord. No. 8131-10, § 3, 2-18-10)

#### Sec. 32.289. Application.

Every sole proprietor or corporate entity required to procure the permit for roll-off container, or waste receptacle service provided for in section 32.288 shall submit an application for such permit to the city manager or designee. The application shall:

- (1) Be a written statement upon forms provided by the city. Such application form shall include an affidavit to be sworn to by the applicant before a notary public of the state.
- (2) Require the disclosure of all information necessary in compliance with this division.
- (3) Be accompanied by a permit fee in the amount set out in Appendix A to this Code.
- (4) Be submitted to the city manager or designee together with all pertinent information required in this division, in order that a determination can be made by the city manager or designee.
- (5) Contain the names of employees responsible for the operation of applicant's business, meaning those who will manage, administer and supervise the business under the permit when issued.
- (6) Contain the following additional information:
  - (a) Number, type and size of waste collection vehicles in use;
  - (b) Number of employees assigned to each waste collection vehicle;
  - (c) Name and location of every establishment in the city, including short-term construction sites, where roll-off containers or waste receptacles are placed and serviced by the applicant.
- (7) Disclose all previous business names, current subsidiaries, parent companies or any successors, if applicable.

(Code 1980, § 54.21; Ord. No. 5219, § 1, 9-17-92; Ord. No. 6117-97, § 1, 1-23-97; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09; Ord. No. 8131-10, § 4, 2-18-10)

#### Sec. 32.290. Prerequisites to issuance.

In determining whether a permit for the placement or servicing of a roll-off container or waste receptacle should be issued, the city manager or designee shall consider and base the decision on the following:

- (1) A review of the material submitted pursuant to section 32.289;
- (2) The certificate of approval of the city manager or designee to the effect that the applicant has satisfied the following:
  - (a) The adequacy of the equipment to be used, as used in this subsection, adequacy of equipment shall mean that the roll-off container and/or waste receptacle does not present a danger or nuisance, is structurally sound, and has markings identifying the current owner of such equipment, such markings shall include the sole proprietor or corporate entity name, phone number, and container number;
  - (b) The applicant has agreed to remit to the city each month a fee of 15 percent of the monthly gross revenue billed by permittee, as set out in Appendix A to this Code, accompanying the remittance, the permittee shall supply invoice copies corroborating the monthly gross revenue derived from servicing locations within the City of Clearwater. Moreover, a permittee shall also provide to the director of solid

waste/general services a monthly report identifying collections made within the city, together with the appropriate service addresses for such collections. The report, remittance, and invoice copies are due no later than the last business day of the following month;

(c) The applicant has agreed to make all books and records applicable to the business conducted under the permit required by section 32.288 available to the city for inspection and audit;

(d) The applicant has provided a copy of a certificate of insurance demonstrating that the applicant's employees performing work pursuant to the permit are covered by workers' compensation insurance.

(Code 1980, § 54.22; Ord. No. 5219, § 1, 9-17-92; Ord. No. 6117-97, § 2, 1-23-97; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.291. Reserved.

**Editor's note:** Ord. No. 5219-92, § 2, adopted Sept. 17, 1992, repealed § 32.291, which pertained to bond. See the Code Comparative Table.

Sec. 32.292. Liability insurance.

The holder of a permit for roll-off container and/or waste receptacle service issued pursuant to this division shall maintain in effect at all times public liability insurance in the minimum amounts of \$500,000.00 single limit for personal injuries arising out of one occurrence and \$100,000.00 property damage, and shall furnish the city a certificate evidencing such insurance. The city shall be named as an additional insured under such insurance. The permit holder shall furnish a certificate of insurance demonstrating compliance with the requirements of this section.

(Code 1980, § 54.24; Ord. No. 5219, § 1, 9-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.293. Roll-off and/or waste receptacle permit application, termination, denial.

(1) All permits for roll-off container and/or waste receptacle service issued pursuant to this division shall be valid for not more than one year and shall terminate on December 31st of each year. Regardless of date of issuance, issuance fee shall be the full amount as stated in Appendix A.

(2) Applicants shall complete a written application on forms provided by the city manager or designee on or before January 1 of each calendar year. The application shall be accompanied by the fee as stated in Appendix A.

(3) No permits required by this division shall be issued to any sole proprietor or corporate entity unless the city manager or designee determines that the city is unable or unwilling to collect, remove or dispose of a particular type or volume of refuse.

(4) Such permit may be terminated or denied by the city manager but only after the procedure set out in section 29.41(2) has been followed. Notwithstanding the procedure set out in section 29.41(2), appeal of the city manager's decision to terminate or deny a permit shall be to the city council.

(5) The granting of a permit pursuant to this division shall not be construed as a grant of a franchise or of vested rights.

(6) No permit shall be issued to any applicant who is delinquent in remittance of franchise fees, penalties, or interest.

(7) The permit issued to the applicant shall not be transferable.

(8) Only private collectors that are able or willing to collect, remove or dispose of a particular type or volume of refuse that the city has first determined that it is unable or unwilling to service or private collectors that only service individual trailers or other similar rubber tire vehicles that are no larger than 15 cubic yards, may be eligible to acquire or continue to renew a permit after February 18, 2013, or three years from the date of adoption of Ordinance **8131-10**, whichever is later. No other permits shall be issued nor be considered valid after such date.

(Code 1980, § 54.25; Ord. No. 5219, § 1, 9-17-92; Ord. No. 6117-97, § 3, 1-23-97; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09; Ord. No. **8131-10**, § 5, 2-18-10)

Sec. 32.294. Revocation or suspension.

The city manager or designee, after affording the permittee for roll-off container or waste receptacle service notice of the charges and opportunity to be heard with respect to any revocation proceedings, may, if the city manager finds this article to have been violated or that false statements were made on any application or on any submittal required by this division by the permittee, agent or employee, revoke the permit in its entirety, suspend the permit for a stated period of time, place the permittee on probation, or place other conditions thereon as the city manager or designee finds necessary.

(Code 1980, § 54.26; Ord. No. 5219, § 1, 9-17-92; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.295. Rates.

Rates for roll-off container and or waste receptacle service are listed in Appendix A - Schedule of Fees, Rates and Charges, Section XXV, Public Works Utility Fees, Rates and Charges.

(Ord. No. 6117-97, § 4, 1-23-97; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.296. Prohibition.

No hazardous or medical waste shall be placed in City of Clearwater roll-off containers and/or waste receptacles hazardous and/or medical waste shall be disposed of by authorized contractors in compliance with federal, state and local laws and regulations.

(Ord. No. 6117-97, § 5, 1-23-97; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Secs. 32.297--32.310. Reserved.

DIVISION 3. RECOVERED MATERIALS DEALERS\*

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\***Editor's note:** Ord. No. 5506-94, § 2, adopted Jan. 20, 1994, amended Div. 3, in its entirety, to read as herein set out. Former Div. 3 pertained to permit for recycling service. See the Code Comparative Table.

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Sec. 32.311. Required.

(1) A recovered materials dealer shall provide to the solid waste/general services director a copy of the certification required by F.S. § 403.7046, prior to engaging in business within the city. In addition, a recovered materials dealer shall register with the solid waste/general services director prior to engaging in business within the city.

(2) Recovered materials generated at commercial establishments within the city shall be source-separated at the premises of the commercial establishment.

(Ord. No. 5506-94, § 2, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.312. Prohibition.

(1) Any person, sole proprietor or corporate entity not certified under F.S. § 403.7046, as required is expressly prohibited from doing business as a recovered materials dealer within the city.

(2) The city expressly reserves the right to provide for the exclusive collection, transportation and processing of recovered materials from single-family or multi-family residential properties or to enter into an exclusive franchise for such services to these properties, or any combination thereof, at the option of the city.

(3) Certified recovered materials dealers are limited to providing service to commercial establishments only.

(4) Only recovered materials may be removed from the commercial solid waste stream.

(Ord. No. 5506-94, § 2, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

Sec. 32.313. Recovered materials dealer registration, termination, denial.

Every sole proprietor or corporate entity hauling, collecting, receiving, and/or processing recovered materials shall be required to register as a recovered materials dealer with the director of solid waste/general services. The registration shall:

- (1) Include a completed written registration on the forms provided by the city manager or designee on or before October 1 of each year. Such registration forms shall include an affidavit to be sworn to by the registrant before a notary public. Regardless of issuance date, issuance fee shall be the full amount as stated in Appendix A.
  - (2) Be accompanied by a registration fee in the amount set out in Appendix A to this Code.
  - (3) Contain the name of the dealer, including the owner or operator of the dealer, its general and limited partners if a partnership, its corporate officers and directors if a corporation, its permanent place of business, evidence of certification under F.S. § 403.7046, and a certification that the recovered materials will be processed at a recovered materials processing facility satisfying the requirements of F.S. § 403.7046.
  - (4) Registration may be terminated or denied by the director of solid waste/general services upon compliance with the procedure set forth in section 29.41 (2).
  - (5) Registration pursuant to this division shall not be construed as a grant of a franchise or vested interest.
  - (6) Registration shall not be transferable.
- (Ord. No. 5506-94, § 2, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.314. Reporting.

Each certified recovered materials dealer registered with the city shall provide to the director of solid waste/general services a quarterly report identifying the types and tonnages of recovered materials from the City of Clearwater that were collected, recycled, or used during the reporting period; the approximate percentage of recovered materials reused, stored or delivered to a recovered materials processing facility or disposed of in the solid waste disposal facility; and the locations where any recovered materials were disposed of as solid waste. Each quarterly report shall be due not later than the last business day of the month following the end of each calendar quarter.

(Ord. No. 5506-94, § 2, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.315. Revocation or suspension.

The city manager or designee, after affording the registrant notice of the charges and an opportunity to be heard with respect with to any revocation proceedings, may, if the city manager finds this article to have been violated or that false statements were made on any report, application or on any submittal required by this division by the applicant, agent or employee, revoke the registration in its entirety, suspend the registration for a stated period of time, place the registrant on probation or place other conditions thereon as the city manager or designee finds necessary.

(Ord. No. 5506-94, § 2, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

**Editor's note:** Ord. No. 8025-09, § 1, adopted June 18, 2009, repealed former § 32.315 and renumbered § 32.316 as § 32.315. Former § 32.315 pertained to termination, denial, renewal. See also the Code Comparative Table.

Secs. 32.317--32.319. Reserved.

### DIVISION 4. RECYCLING BY CITY

#### Sec. 32.320. Curbside.

- (1) Curbside recycling shall be provided to residential, office, and hotel/motel units which are served by rearloader or sideloader solid waste collection and a fee shall be assessed in the amount set out in Appendix A to this Code.
- (2) Curbside recycling collection will be once-weekly. A recycling container will be furnished by the city along with instructional materials providing the necessary information for proper participation to include the designation of the collection day.

(3) Curbside recycling containers placed near the curb, street or alley shall be placed there no earlier than 7:00 p.m. on the evening preceding the collection day and must be removed to a point at the side or rear of the structure by 7:00 a.m. of the following day. Any container not removed will be tagged by the solid waste/general services department with a warning. Repeat violators will be subject to a fine in the amount set forth in section 32.281(3)(a), which will be placed on the customer's utility bill.

(Ord. No. 5506-94, § 3, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.321. Multi-family recycling.

Multi-family recycling shall be provided to complexes within the city.

(1) A fee shall be assessed in the amount set out in Appendix A to this Code.

(2) Multi-family recycling may be tailored to the needs of each complex and is integrated into a full-service solid waste management program.

(3) Repeated contamination of the recyclable materials collected by the solid waste/general services department will result in a rejection of service, and the recipient of said service shall still be responsible for paying all applicable fees as stated in Appendix A to this Code.

(Ord. No. 5506-94, § 3, 1-20-94; Ord. No. 5941-95, § 1, 1-4-96; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)

#### Sec. 32.322. Commercial recycling.

Commercial recycling may be provided by the solid waste/general services department in competition with certified recovered materials dealers registered with the city. The solid waste/ general services department will provide customized recycling service to commercial establishments tailored to the needs of the establishment and integrated into a total solid waste management program. Commercial recycling base rates will be set out in Appendix A to this Code, and such base rates may be amended from time to time by resolution adopted by the city council. The city manager or designee may adjust the rates upwards or downwards in order to be cost-competitive with private recovered materials dealers operating within the city.

(Ord. No. 5506-94, § 3, 1-20-94; Ord. No. 6391-99, § 1, 3-4-99; Ord. No. 8025-09, § 1, 6-18-09)