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ORDINANCE NO. 2022-16

AN ORDINANCE OF WELLINGTON, FLORIDA’S COUNCIL AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 46 TITLED “SOLID WASTE” IN ITS ENTIRETY, AND AMENDING AND RENUMBERING IT AS CHAPTER 17 TITLED “SOLID WASTE,” AS CONTAINED HEREIN, TO SIMPLIFY THE CODE, REMOVE UNECESSARY AND OBSOLETE PROVISIONS, AND PROVIDE FOR A SOLID WASTE MANAGEMENT PROGRAM AND A MANDATORY SOLID WASTE COLLECTION PROGRAM THROUGH THE LEVY OF SPECIAL ASSESSMENTS; PROVIDING A REPEALER CLAUSE; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Wellington Council, as the governing body, pursuant to the authority vested in it by Chapter 166, Florida Statutes, and Article VIII, Section 2 of the Florida Constitution, is authorized and empowered to adopt legislation to govern the affairs of its citizens; and

WHEREAS, Wellington adopted its first Code of Ordinances in 1997, shortly after incorporation, and since that time has adopted revisions as necessary to protect the health, safety, and welfare of its citizens; and

WHEREAS, Wellington believes that it is in the best interest of the community to make additional modifications to the Code of Ordinances to remove outdated and unnecessary provisions and to simplify the provisions set forth therein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF WELLINGTON, FLORIDA, THAT:

SECTION 1: Chapter 46 of Wellington’s Code of Ordinances is hereby repealed in its entirety, and is amended and renumbered as Chapter 17, titled “Solid Waste,” and is hereby adopted as specifically provided in Exhibit A attached to this Ordinance.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: Should any section, paragraph, sentence, clause, or phrase of this Ordinance conflict with any section, paragraph, clause, or phrase of any prior Wellington Ordinance, Resolution, or Municipal Code provision, then in that event the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4: Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion or part thereof,

47 other than the part so declared to be invalid.

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SECTION 5: This Ordinance shall become effective immediately upon adoption of the Wellington Council following second reading.

PASSED this _____ day of _____, 2022 upon first reading.

PASSED AND ADOPTED this _____ day of _____, 20__ on second and final reading.

WELLINGTON

	FOR	AGAINST
BY: _____ Anne Gerwig, Mayor	_____	_____
_____ Michael Drahos, Vice Mayor	_____	_____
_____ John McGovern, Councilman	_____	_____
_____ Michael Napoleone, Councilman	_____	_____
_____ Tanya Siskind, Councilwoman	_____	_____

ATTEST:

BY: _____
Chevelle D. Addie Village Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

BY: _____
Laurie S. Cohen, Village Attorney

EXHIBIT A

~~Chapter 46 SOLID WASTE¹~~

~~ARTICLE I. IN GENERAL~~

~~Sec. 46-1. Depositing or dumping of solid waste or other deleterious materials.~~

~~No person shall deposit, release, throw or dump into or on any public property, lakes, canals, water bodies or any adjacent, attendant or contiguous right-of-way thereto, or any other public property located within the village, any filth, dirt, garbage, trash, refuse or other deleterious material.~~

~~(Ord. No. 96-11, § 1, 5-14-96)~~

~~State law reference(s)—Florida Litter Law, F.S. § 403.413.~~

~~Secs. 46-2—46-20. Reserved.~~

~~ARTICLE II. COLLECTION²~~

~~Sec. 46-21. Purpose and provision for mandatory solid waste collection.~~

- ~~(a) The purpose of this article is to promote the health, welfare, and safety of the residents of the village, by providing for a solid waste management program and a mandatory solid waste collection program through the levy of special assessments and other fees and by providing an adequate solid waste collection program through the regulated services of a contractor, or otherwise, as determined by the village.~~
- ~~(b) All solid waste generated or accumulated by assessed units and non-assessed units shall be collected, conveyed and transported by the designated contractor within the service area in which the assessed units and non-assessed units are located, and the owners of said assessed units and non-assessed units on the established route of the designated contractor for such service area in which the said units are located shall be subject to mandatory collection as provided for in this article.~~
- ~~(c) Roll-off collection service for sites under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements~~

¹Cross-reference(s)—Buildings and building regulations, ch. 18; environment, ch. 30; manufactured homes and trailers, ch. 34; streets, sidewalks and other public places, ch. 54; utilities, ch. 66; franchises, app. A-

State law reference(s)—Florida Litter Law, F.S. § 403.413; resource recovery and management, F.S. § 403.702 et seq.; Statewide Multipurpose Hazardous Waste Facility Siting Act, F.S. § 403.78 et seq.

²Editor's note(s)—Sections 1—22 of Ord. No. 98-17, adopted July 14, 1998, amended Art. II in its entirety, in effect repealing §§ 46-21—46-33 and enacting similar new provisions in lieu thereof as §§ 46-21—46-43. Formerly, such provisions derived from §§ 1—13 Ord. No. 97-27, adopted Jan. 27, 1998.

of the mandatory solid waste collection program but shall be regulated by the village's solid waste management program as set forth in this article.

(Ord. No. 98-17, § 1, 7-14-98)

Sec. 46-22. Legislative findings and declaration of benefit.

It is hereby ascertained, determined and declared that:

- ~~(1) The fact that all improved properties located within the village that are designed for human occupancy, are capable of human occupancy or human activity, or are used for commercial use, shall be prima facie evidence that solid waste is being produced by or accumulated upon such property.~~
- ~~(2) All improved properties located within the village receive a direct and substantial benefit by the provision of solid waste management and mandatory solid waste collection program, including but not limited to the services described herein, in an amount equal to or in excess of the cost of providing such solid waste management program and solid waste collection program.~~
- ~~(3) The management of solid waste through regulation, penalties and enforcement is a proper and necessary function of local government.~~
- ~~(4) Properties that are under construction or demolition shall be prima facie evidence that solid waste is being produced by or accumulated upon such property.~~

(Ord. No. 98-17, § 2, 7-14-98)

Sec. 46-23. Definitions.

For the purposes of this article, the following terms shall have the following meanings:

~~*Assessed unit* means any collection unit which is subject to the solid waste collection special assessment.~~

~~*Authority* shall mean the solid waste authority of Palm Beach County.~~

~~*Biohazardous or biomedical wastes* shall mean those wastes which may cause disease or reasonably be suspected or harboring pathogenic organisms; included, but not limited to, waste resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves.~~

~~*Bulk trash* shall mean any non-vegetative item which cannot be containerized, bagged or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods and furniture and shall not be commingled with vegetative waste. There shall be no weight limit for any item of bulk trash.~~

~~*Collection unit* means any parcel of improved real property located within the village that generates or is capable of generating solid waste and that contains buildings,~~

~~structures or other improvements designed or constructed for and capable of use by or used for human habitation, human activity or commercial enterprises.~~

~~Collection shall mean the process whereby solid waste, garbage, trash, bulk trash, vegetative waste, recyclable materials, construction and demolition debris is removed and transported to a designated facility.~~

~~Commercial recycling collection service shall mean the collection of recyclable materials by a contractor for entities within the service area that are not serviced by residential recycling collection service.~~

~~Commercial solid waste shall include any garbage, bulk trash, trash or vegetative waste that is not residential solid waste. Substantial effort shall be made not to commingle garbage, trash or bulk trash with vegetative waste.~~

~~Commercial solid waste collection service shall mean the collection of the commercial solid waste within the service area. Such service includes both containers and compactors, but does not include roll-off collection services.~~

~~Compactor shall mean any container which has compaction mechanism(s), whether stationary or mobile, all inclusive.~~

~~Construction and demolition debris (C&D) shall mean materials generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, roofing material, pipe, gypsum wallboard, and lumber from the construction or destruction of a structure as part of a construction or demolition project. Mixing of a de minimis amount of waste other than C&D from the construction site will not automatically cause it to be classified as other than C&D.~~

~~Container shall mean and include any container designed or intended to be mechanically dumped into a loader packer type truck or recycling vehicle. All containers must be of the specifications as designated by the contract administrator, in writing.~~

~~Containerized residential recycling collection services shall mean the collection of recyclable materials by the contractor from dwelling units in the service area that requires the use of containers for the collection of recyclable materials and which also receive residential collection services for solid waste, and the delivery of those recyclable materials to a materials recycling facility.~~

~~Containerized residential solid waste collection service shall mean solid waste collection service of all dwelling units whose garbage, trash, bulk trash or vegetative waste is collected by means of a central or shared container and not by means of a garbage can. Vegetative waste shall not be commingled with garbage, trash, or bulk trash.~~

~~Contract shall mean an agreement, executed between the village and the contractor for the performance of the specified solid waste and recycling collection agreement, as amended from time to time.~~

~~Contractor means the person, firm, corporation or entity designated by the village to perform the specified services in accordance with the terms of the contract.~~

~~Contract administrator shall mean the person(s) designated by the village who shall act as the village's representative in the administration and supervision of the contract and any other contractual agreement(s) relating to solid waste management and solid waste collection program.~~

~~Curbside residential recycling collection service shall mean the collection of recyclable materials by a contractor from all dwelling units in the service area that also receive curbside residential solid waste collection service for solid waste and other dwelling units as are designated by the village, and the delivery of those recyclable materials to the solid waste authority's materials recycling facility or designated solid waste authority transfer station.~~

~~Curbside residential solid waste collection service shall mean residential solid waste and vegetative waste collection service for all dwelling units whose garbage is collected by means of a garbage can at curbside or roadway.~~

~~Department shall mean the Florida Department of Environmental Protection.~~

~~Disposal costs shall mean the "tipping fees" or landfill costs charged by others for disposal of the waste collected.~~

~~Designated facility shall mean a solid waste authority or Palm Beach County owned disposal, processing, recovery, recycling or transfer facility, or a processing facility permitted by the solid waste authority of Palm Beach County.~~

~~Dwelling unit shall mean type of structure or building unit intended for or capable of being utilized for residential living other than a licensed hotel or motel unit.~~

~~Fiscal year means the period between October 1 of a given year and September 30 of the following year.~~

~~Garbage shall mean all putrescible waste which generally includes, but is not limited to, kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities. Vegetative waste shall not be commingled with garbage in the same collection. Garbage shall not include any material that falls within the definition of special waste.~~

~~Garbage receptacle or can shall mean any commonly available light gauge steel, plastic, or galvanized receptacle of a nonabsorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handle(s). A garbage can is also defined as a heavy duty, securely tied, plastic bag designed for use as a garbage receptacle. Such container, including materials, shall not exceed 50 gallons in capacity or 50 pounds in weight, unless a contractor implements (with written authorization from the contract administrator or his designee) an automated or semi-automated collection system requiring the use of some other standard receptacle compatible with the contractor's equipment supplied by the contractor and approved by the village. A cardboard box may also be used as a garbage can, provided the contents do not contain a level of moisture as to saturate the box and weaken its walls.~~

~~*Governmental agencies* means all state, federal, and local units of government, or any agency or department thereof, which is the owner of any collection unit within the village.~~

~~*Hazardous waste* shall mean solid waste as defined by the State of Florida Department of Environmental Protection as a hazardous waste in the State of Florida Administrative Code, or by any future legislative action or by federal, state or local law.~~

~~*Hotel or motel* shall mean a structure or building unit(s) capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven days or less. To meet this definition, the hotel or motel must be licensed to operate as such. "Transient" has the meaning as defined in F.S. ch. 509, or its successor law.~~

~~*Illegal dumping* shall mean the act of depositing solid waste, bulk trash, vegetative waste or C&D on property which has not been permitted as a designated facility by the solid waste authority.~~

~~*Litter* shall mean solid waste or any other waste material which is thrown, cast, scattered, dropped, spilled or deposited on public or private property, including rights-of-way and parking lots, through intent or negligence which tends to create a danger to public, health, safety and welfare.~~

~~*Materials recycling facility (MRF)* shall mean any facilities operated or managed by, for, or on behalf of the village for the purpose of receiving, sorting, processing, storing, and/or preparing recyclable materials for sale, as specifically designated by the contract administrator, in writing.~~

~~*Mixed paper* shall be defined as a mixture of paper products including magazines, catalogues, phone books, cereal boxes, soda and beer can boxes, chipboard, file folders, envelopes, letter paper, junk mail, notebook paper and any other clean paper products.~~

~~*Nonassessed unit* means any collection unit or portion thereof that is not an assessed unit.~~

~~*Owner* means the person or persons owning an interest in a collection unit, assessed unit or nonassessed unit.~~

~~*Peak times* shall mean the period between November 1 of a given year and April 30 of the following year, unless otherwise specified by the village.~~

~~*Person* means any natural person, or partnership, firm, corporation or other legal entity.~~

~~*Property appraiser* means the Palm Beach County Property Appraiser.~~

~~*Public awareness program* shall mean that program developed by the village to inform and encourage residential and commercial solid waste collection customers to use all solid waste and recycling collection services offered by or through the village. It shall also mean information concerning level of service and changes in scope of service.~~

~~*Rate resolution* means resolution(s) of the village described in this article relating to rates and fees charged for the operation, maintenance and administration of the solid waste program and mandatory solid waste collection program.~~

~~*Recyclable materials* shall mean newspapers (including inserts), aluminum, plastic containers, glass bottles and jars, milk and juice cartons, aseptic containers, corrugated cardboard, brown paper bags, mixed paper, tin and ferrous cans, household dry-cell batteries (no wet-cell batteries), and other solid waste materials added upon agreement between the village and its contractor, when such materials have been either diverted from the remaining solid waste stream or removed prior to their entry into the remaining solid waste stream.~~

~~*Recycling* means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.~~

~~*Recycling container* shall mean a rigid container made of plastic or other suitable substance that is used for the storage of recyclable materials.~~

~~*Residential recycling collection service* shall mean curbside residential recycling collection services and containerized residential recycling collection service.~~

~~*Residential solid waste* shall mean garbage, trash and bulk trash resulting from the normal housekeeping activities of a dwelling unit, but shall not include vegetative waste. Residential solid waste shall also mean construction and demolition debris (C&D) resulting from minor home repair from the dwelling unit.~~

~~*Residential solid waste collection service* shall mean curbside residential solid waste collection service and/or containerized residential solid waste collection service.~~

~~*Roll-off collection service* shall mean the collection of C&D only roll-off containers, or the collection of C&D by other mechanical means, within temporary locations in the service area, limited to new construction sites and remodeling or refurbishment sites. Roll-off collection service shall also mean the collection of horticultural or agricultural wastes at horticultural or agricultural nurseries, but only when the customer chooses to use roll-off containers for horticultural or agricultural waste, and horticultural and agricultural waste shall not include any other type of waste, including, but not limited to, special waste, garbage or recyclable material.~~

~~*Roll-off collection service provider* shall mean the person(s), firm(s), corporation(s), or other legal entity(ies) permitted by the village to provide temporary roll-off or similar C&D collection services within the service area in accordance with terms and conditions established by the village. The village may determine that the contractor may provide this service as an exclusive part of the contract to provide mandatory solid waste collection service within the service area.~~

~~*Service area* shall mean the area within the incorporated boundaries of the Village of Wellington, Florida, for which the solid waste management and mandatory solid waste collection program is administered as provided in the contract as it may be amended from time to time.~~

~~Sludge shall mean a solid or semi-solid, or liquid generated from any waste water treatment plant, water supply treatment plant, air pollution control facility, septic tank, grease trap, portable toilets and related operations, or any other such waste having similar characteristics or effects.~~

~~Solid waste shall mean garbage, bulk trash, C&D debris, litter, trash, vegetative waste or other discarded material resulting from domestic, industrial, commercial, agriculture or governmental operations excluding special waste as defined herein.~~

~~Solid waste and recycling collection agreement means the agreement entered into by and between the village and a contractor who is awarded, through the bidding process, the exclusive right to provide residential solid waste collection services, residential recycling collection services, and commercial solid waste collection services throughout the collection service area.~~

~~Solid waste authority disposal facility shall mean place or places specifically managed or operated by the solid waste authority of Palm Beach County.~~

~~Solid waste collection program means the services and means of collecting solid waste from a collection unit through the use of equipment, trucks, containers, personnel, contracted or permitted services, and all real or personal property owned, leased, operated or used by the village for the purpose of providing the solid waste collection services generally described in this article.~~

~~Solid waste collection special assessment means the special assessment imposed by the village upon an assessed unit for the collection of solid waste for the applicable fiscal year based upon the classification of the use of such assessed unit as set forth in the rate resolution. The solid waste collection special assessment shall not include the cost of disposal of such collected solid waste since the cost of disposal of such solid waste has been separately imposed upon such assessed unit by the authority.~~

~~Solid waste collection special assessment roll means the list prepared by and adopted by the village each fiscal year containing a summary description of each assessed unit, the name and address of the owner of each such assessed unit as indicated on the records maintained by the property appraiser and the amount of the solid waste collection special assessment applicable to each assessed unit.~~

~~Solid waste management program means the program of managing the generation, storage, collection, transporting, processing and disposal of solid waste within the village. The program provides for the regulation, permitting, contracting and enforcement of all aspects of this program.~~

~~Special services shall mean any services requested or required by the customer which are in addition to, or a change in, residential solid waste collection service, residential recycling collection service, commercial recycling collection service and commercial solid waste collection service as set out or similar to those provided for in the contract.~~

~~Special waste shall include automobiles, boats, internal combustion engines, non-automobile tires, sludge, dead animals, septic tank waste, biohazardous or biomedical waste, liquid waste, and hazardous waste. Special waste may also include items determined by the contract administrator to be reasonably unmanageable.~~

~~Tax collector means the Palm Beach County Tax Collector.~~

~~Trash shall mean all refuse, accumulation of paper, rags, wooden or paper boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than garbage, which are usual to housekeeping and to the operation of stores, offices and other business places, but shall not include vegetative waste.~~

~~Uncontrollable forces shall mean any event which results in the prevention or delay of performance by a party of its obligations under the contract and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fires, flood, hurricanes, earthquakes, storms, lightening, epidemic, war, riot, civil disturbances, sabotage, and governmental actions.~~

~~Uniform method means the "Uniform Method for the Levy, Collection and Enforcement of Non-Ad Valorem Assessments" prescribed by F.S. ch. 197, as amended and supplemented.~~

~~Vegetative waste shall mean any vegetative matter resulting from yard and landscaping maintenance by any party and shall include materials such as tree and shrub materials, grass clippings, palm fronds, tree branches and similar other matter usually produced as refuse in the care of lawns, landscaping and yards. All grass clippings, leaves, pine needles, and similar loose items must be bagged or containerized. Vegetative waste, except palm fronds, must be no more than six feet in length and no single item shall weigh more than 50 pounds, and shall be placed neatly at the curb. Natural Christmas trees will be collected as vegetative waste and any section must not be more than eight feet in length and must be under 50 pounds.~~

~~(Ord. No. 98-17, § 3, 7-14-98)~~

~~**Sec. 46-24. Utilization of uniform method for the levy, collection and enforcement of solid waste collection special assessments.**~~

~~The village shall utilize the procedures set forth in F.S. §§ 197.3632 and 197.3635, ("uniform method"), as may be amended and supplemented from time to time, for the levy, collection and enforcement of the solid waste collection special assessments provided by this article. All provisions set forth in the uniform method shall be applicable to the levy, collection and enforcement of the solid waste collection special assessments, as if fully set forth herein, unless otherwise provided in this article.~~

~~(Ord. No. 98-17, § 4, 7-14-98)~~

~~**Sec. 46-25. Public hearing for adoption of budget; determination of service area, collection units and assessed units; adoption of non-ad valorem special assessment rate resolution.**~~

~~In addition to the provisions set forth in the uniform method, the village shall hold a public hearing on or before September 15 of each fiscal year for the following purposes:~~

- ~~(1) *Budget.* To adopt a budget for the operation, maintenance and administration of the solid waste collection program for the ensuing fiscal year, including monies for the payment of the principal of and interest on bonds and other outstanding~~

~~or anticipated indebtedness, including all reserves necessary for the payment of capital expenditures, the renovation, improvements and replacements of existing facilities or equipment, and expenditures for daily operations for the solid waste collection program, for the enforcement and administration of the billing and collection of the solid waste collection special assessment provided for hereunder, including necessary reserves for anticipated delinquent or uncollectible solid waste collection special assessment and for the payment of the current operation and maintenance and administration of the solid waste collection program.~~

~~(2) *Service area, collection units and assessed units.* To define the service area and determine the collection units and assessed units based upon circumstances effecting the collection of solid waste and the operation of the solid waste collection program including, but not limited to, the cost of operating, maintaining and administering the solid waste collection program and the benefit to all assessed units in the village.~~

~~(3) *Rate resolution.*~~

~~a. To adopt a rate resolution incorporating a schedule of solid waste collection special assessment to be imposed upon the owners of all assessed units in the service area and to establish the classification of the use of each assessed unit in order to provide revenues which, together with other monies of the village lawfully available therefor, shall be sufficient to fund the budget referred to in the aforementioned subsection (1). The rate resolution shall also include the disposal costs of the solid waste collected from the assessed units unless the disposal costs of such solid waste, or any portion thereof, has been separately imposed upon such assessed unit of real property.~~

~~b. The rates established by the village in each year under the provisions of the rate resolution shall be sufficient to provide monies for the purposes described in subsection (1) and the village shall not establish rates over and above the rates that are necessary to comply with the provisions of subsection (1) and the budgetary requirements of any proceedings of the village heretofore or hereafter adopted in connection with the issuance of any of its bonds, notes or other evidences of indebtedness.~~

~~c. The solid waste collection special assessment incorporated in the rate resolution applicable to each assessed unit shall be the solid waste collection special assessment for each such assessed unit for the collection, and disposal, unless otherwise assessed pursuant to this article, of all solid waste generated or capable of being generated as determined by the village on each such assessed unit during the ensuing fiscal year.~~

~~d. The solid waste collection special assessment shall be imposed against the owners of all assessed units in the village if such real property is an assessed unit on or before the first day of January prior to the fiscal year in which the solid waste collection special assessment are imposed. The owner and description of each assessed unit at the time of preparing such~~

~~assessments shall be that designated on the real property records maintained by the property appraiser.~~

- ~~e. To the extent a budget has not been adopted by the village council for the operation, maintenance and administration of the solid waste collection program for the ensuing fiscal year by September 30, then the budget and rate resolution from the preceding fiscal year will constitute the budget and rate resolution.~~

~~(Ord. No. 98-17, § 5, 7-14-98)~~

~~**Sec. 46-26. Adoption and certification of the solid waste collection special assessment roll.**~~

~~In accordance with the procedures set forth in the uniform method, the council will adopt and certify the solid waste collection special assessment roll.~~

~~(Ord. No. 98-17, § 6, 7-14-98)~~

~~**Sec. 46-27. Solid waste collection special assessments shall constitute a lien on improved real property.**~~

~~All solid waste collection special assessments imposed against the owners of assessed units pursuant to this article shall constitute, and are hereby imposed as, liens against such real property as of January 1 of each year or as soon thereafter as the certified roll is received by the tax collector. Until fully paid and discharged or barred by law, the solid waste collection special assessments shall remain liens equal in rank and dignity with the lien of county ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. If any solid waste collection special assessment liens become delinquent by not being fully paid by April 1 following the year in which they are assessed, or immediately after 60 days have expired from the mailing of the original notice set forth by the uniform method, whichever is later, and remain delinquent, such liens shall be enforced by the tax collector in the same manner as any other special assessment lien of the village.~~

~~(Ord. No. 98-17, § 7, 7-14-98)~~

~~**Sec. 46-28. Applicability of solid waste collection special assessments to assessed units owned by governmental agencies.**~~

- ~~(a) Any governmental agency owning any assessed unit within the village shall pay the solid waste collection special assessment imposed under the applicable classification specified in the rate resolution.~~
- ~~(b) The discounts for early payment shall not be applicable to the solid waste collection special assessments imposed against governmental agencies. Such governmental agencies shall pay the full solid waste collection special assessment imposed.~~
- ~~(c) The solid waste collection special assessments imposed against governmental agencies shall become delinquent if not fully paid within 60 days from the date the notice of such solid waste collection special assessments are mailed. All delinquent~~

~~solid waste collection special assessments shall bear an initial penalty of four percent of the full amount of the solid waste collection special assessment if not paid by the expiration of such 60-day period and an additional penalty of one percent per month on the delinquent amount plus the initial penalty on the first day of the first month following the expiration of such 60-day period and on the first day of each month thereafter until said solid waste collection special assessments are paid in full.~~

~~(d) The provisions of this article regarding liens and enforcement shall not be applicable to the solid waste collection special assessments imposed against assessed units owned by governmental agencies. However, the village shall have the authority to enforce the collection of any delinquent solid waste collection special assessment by the institution of an appropriate action against the governmental agency in a court of competent jurisdiction for a judgment for the amount due for such solid waste collection special assessment, including all penalties, plus costs and a reasonable attorney's fee.~~

~~(e) The village shall be exempt from the provisions of this article.~~

~~(Ord. No. 98-17, § 8, 7-14-98)~~

~~**Sec. 46-29. Applicability of solid waste collection special assessments to tax exempt assessed units.**~~

~~The exemption of property from taxation under F.S. ch. 196, or any other law or constitutional provision shall not relieve the owner of any assessed unit in the village from the provisions hereof or from the imposition by the village of the solid waste collection special assessment.~~

~~(Ord. No. 98-17, § 9, 7-14-98)~~

~~**Sec. 46-30. Procedural irregularities.**~~

~~Any informality or irregularity with the proceedings in connection with the levy of the solid waste collection special assessment under the provisions of this article shall not affect the validity of the same after the approval thereof, and any solid waste collection special assessment as finally approved shall be competent and sufficient evidence that such solid waste collection special assessment was duly made and adopted and that all other proceedings adequate to such solid waste collection special assessment were duly had, taken and performed as required by this article and the uniform method. No variance from the directions hereunder shall be held material unless it is clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a solid waste collection special assessment imposed pursuant to this article must file an objection with a court of competent jurisdiction within the time periods prescribed herein.~~

~~(Ord. No. 98-17, § 10, 7-14-98)~~

~~**Sec. 46-31. Correction of errors and omissions.**~~

~~(a) No act of error or omission on the part of the property appraiser, tax collector, clerk, council or their agents or employees shall operate to release or discharge any~~

obligation for the payment of any solid waste collection special assessment imposed by the council under the provisions of this article.

- ~~(b) After the solid waste collection special assessment roll has been delivered to the tax collector in accordance with the uniform method, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.~~

~~(Ord. No. 98-17, § 11, 7-14-98)~~

~~Sec. 46-32. Residential collection service.~~

- ~~(a) The accessibility of all residential solid waste and the level of service regarding the frequency of pickup will be defined in the contract.~~
- ~~(b) The village may impose, change, modify or delete the requirements setting forth the responsibilities of the owner or owners of an assessed unit and the contractor providing collection for such assessed unit regarding the method, scope and extent of collection, including, but not limited to, frequency of pickups, classes of solid waste pickup, shape, size and quantity per pickup, types of containers and placement or location of solid waste for pick up, by setting them out in a separate ordinance.~~

~~(Ord. No. 98-17, § 12, 7-14-98)~~

~~Sec. 46-33. Responsibilities of the solid waste and recycling collection contractor and roll-off collection service provider.~~

~~The contractor and roll-off collection service provider shall comply with all provisions of the contract and the agreements entered into with the village and the provisions of this article which by reference incorporates all federal, state, county, and local units of government, with jurisdiction in the village, laws, regulations and ordinances, applying to the storage, collection, transport, processing or disposal of solid waste, garbage, trash, bulk trash, vegetative waste, C&D and recyclable materials.~~

~~(Ord. No. 98-17, § 13, 7-14-98)~~

~~Sec. 46-34. Nonassessed residential units.~~

- ~~(a) All solid waste generated or accumulated by a nonassessed residential unit shall be collected, conveyed and transported by the designated contractor within the service area in which the nonassessed unit is located, except for solid waste requiring roll-off collection service. The owners of all nonassessed units on the established route of the designated contractor for such service area in which the nonassessed unit is located shall use the mandatory solid waste collection program.~~
- ~~(b) The village shall establish a fee for mandatory solid waste and recycling collection service for nonassessed residential units which have been issued a certificate of occupancy, either permanent or temporary for full or fractional use of the premises.~~
- ~~(c) The fee for the mandatory solid waste and recycling collection program for nonassessed residential units shall be established annually by the village by resolution.~~

~~(d) Roll-off collection service for residential sites under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements of the mandatory collection program but shall be regulated as provided in section 26-40 hereof.~~

~~(Ord. No. 98-17, § 14, 7-14-98)~~

~~Sec. 46-35. Nonassessed nonresidential units.~~

~~(a) All solid waste generated or accumulated by a nonassessed nonresidential unit shall be collected, conveyed and transported by the designated contractor within the service area in which the nonassessed unit is located, except for solid waste requiring roll-off collection service. The owners of all nonassessed units on the established route of the designated contractor for such service area in which the nonassessed unit is located shall use the mandatory solid waste collection program.~~

~~(b) Nonassessed nonresidential units shall comply with the provisions of this article and the contract pertaining to the frequency, conditions and manner of the collection of solid waste.~~

~~(c) The fee for the mandatory solid waste and recycling collection program for nonassessed nonresidential units shall be established by the village by resolution.~~

~~(d) Roll-off collection service for sites, other than residential, under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements of the mandatory collection program but shall be regulated as provided in section 46-40 hereof.~~

~~(Ord. No. 98-17, § 16, 7-14-98)~~

~~Sec. 46-36. Roll-off collection service provider.~~

~~(a) Any person wishing to provide roll-off collection service within the village shall be required to have a valid permit issued by the village to provide said services as set forth herein.~~

~~(b) The village shall provide a process for issuing permits for roll-off collection service. Said process shall include, but not be limited to, an application requiring specific information and containing terms and conditions for administering the permit, establishment of permit fees, and penalties for violation, including loss of permit.~~

~~(c) Permit fees for the right to provide roll-off collection service within the village shall be adopted by village resolution and shall be used for any lawful purpose within the village's solid waste management program.~~

~~(d) For purposes of this section, roll-off collection service shall include solid waste specifically excluded from the contract.~~

~~(Ord. No. 98-17, § 16, 7-14-98)~~

~~Sec. 46-37. Ownership of solid waste and recyclable material.~~

~~Ownership of solid waste and recyclable materials collected pursuant to the contract shall be vested with the village.~~

~~(Ord. No. 98-17, § 17, 7-14-98)~~

~~Sec. 46-38. Frequency of collection.~~

~~All solid waste and recyclable materials shall be collected in accordance with the provisions of the contract except as may be changed by the village due to uncontrollable forces or changes in technology.~~

~~(Ord. No. 98-17, § 18, 7-14-98)~~

~~Sec. 46-39. Equipment.~~

~~Equipment used within the village for the storage and collection of solid waste, recyclables and construction and demolition debris shall, at all times, be in safe operating condition, clean, in good repair, and display the company name and local telephone number in letters and numbers at least five inches high.~~

~~(Ord. No. 98-17, § 19, 7-14-98)~~

~~Sec. 46-40. Control and management of solid waste at construction sites.~~

~~(a) All construction sites, which includes demolition for purposes of this article, shall be required to have sufficient number and capacity of open top roll-off containers to adequately handle all waste generated at the site in a manner whereby no container is overfilled.~~

~~(b) All contractors are required to secure construction roll-off container service from firms permitted by the village to offer said services.~~

~~(c) General contractors shall be required to control all litter and waste generated at construction sites including waste generated by all subcontractors and construction workers. General contractors shall be subject to payment of fines and penalties established by the village for failing to control litter and waste associated with their construction projects on the project property.~~

~~(d) Exceptions to these requirements include the provisions of the contract and those that may be provided by the village through the contract administrator.~~

~~(Ord. No. 98-17, § 20, 7-14-98)~~

~~Sec. 46-41. Unauthorized accumulations prohibited.~~

~~(a) Any unauthorized accumulation of solid waste, trash, bulk trash, vegetative waste and construction and demolition debris on any premises is prohibited and may be subject to penalties as established by the village.~~

~~(b) Back yard composting of household material described by the authority is excluded from (a) above as is stable waste and vegetative waste provided that the activity does not generate obnoxious odors, attract vermin and is screened from public view.~~

~~(Ord. No. 98-17, § 21, 7-14-98)~~

~~**Sec. 46-42. Littering.**~~

~~No person shall deposit waste material within the village on public or private property except in a receptacle intended for said waste. Littering shall include, but not be limited to, thrown, dropped, cast, spilled or blown waste.~~

~~(Ord. No. 98-17, § 22, 7-14-98)~~

~~**Sec. 46-43. Enforcement.**~~

~~It shall be unlawful for any person to fail, neglect, or refuse to comply with and abide by each provision of this article. The performance on each day of any prohibited act or practice or the failure to perform on each day of any required act or practice shall constitute a separate offense and shall be punishable as such.~~

~~(Ord. No. 98-17, § 23, 7-14-98)~~

Chapter 17 - SOLID WASTE

ARTICLE I - IN GENERAL

Sec. 17-1: Depositing or Dumping of Solid Waste or Other Deleterious Materials

No person shall deposit, release, throw, or dump into or on any public property, lakes, canals, water bodies, or any adjacent, attendant, or contiguous right-of-way thereto, or any other public property located within Wellington, any filth, dirt, garbage, trash, refuse, or other deleterious material.

ARTICLE II - COLLECTION

Sec. 17-2: Purpose and Provision for Mandatory Solid Waste Collection

- (a) The purpose of this article is to promote the health, welfare, and safety of the residents of Wellington, by providing for a solid waste management program and a mandatory solid waste collection program through the levy of special assessments and other fees and by providing an adequate solid waste collection program through the regulated services of a contractor, or otherwise, as determined by Wellington.
- (b) All solid waste generated or accumulated by assessed units and non-assessed units shall be collected, conveyed, and transported by the designated contractor within the service area in which the assessed units and non-assessed units are located, and the owners of said assessed units and non-assessed units on the established route of the designated contractor for such service area in which the said units are located shall be subject to mandatory collection as provided for in this article.
- (c) Roll-off collection service for sites under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements

of the mandatory solid waste collection program but shall be regulated by Wellington's solid waste management program as set forth in this article.

Sec. 17-3: Legislative Findings and Declaration of Benefit

It is hereby ascertained, determined, and declared that:

- (1) The management of solid waste through regulation, penalties, and enforcement is a proper and necessary function of local government.
- (2) The fact that all improved properties located within Wellington are designed for human occupancy, are capable of human occupancy or human activity, or are used for commercial use, shall be prima facie evidence that solid waste is being produced by or accumulated upon such property.
- (3) Properties that are under construction or demolition shall be prima facie evidence that solid waste is being produced by or accumulated upon such property.
- (4) All improved properties located within Wellington receive a direct and substantial benefit by the provision of solid waste management and a mandatory solid waste collection program, including but not limited to the services described herein, in an amount equal to or in excess of the cost of providing such solid waste management program and solid waste collection program.
- (5) The Florida Legislature encourages local governments to recover the full costs associated with solid waste management within its service area and, pursuant to Chapter 403, F.S., authorizes Wellington to assess residential and nonresidential users of such services using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments set forth Chapter 197, F.S.

Sec. 17-4: Definitions

For the purposes of this article, the following terms shall be defined as set forth in this section. In the event of a conflict between the definitions set forth in this section and Chapter 403, F.S., the statutory definition shall control:

Assessed Unit: any collection unit that is subject to the solid waste collection special assessment.

Authority: the Solid Waste Authority of Palm Beach County.

Biohazardous or Biomedical Waste: any solid waste or liquid waste that may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste that contains human-disease-causing agents; discarded disposable sharps; human blood and human blood products and body fluids; and other materials that in the opinion of the Florida Department of Health represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter 497, F.S.

Bulk Trash: any non-vegetative item that cannot be containerized, bagged, or bundled; including, but not limited to, inoperative and discarded refrigerators, ranges, toilets, pool heaters, water softeners, pianos, washers, dryers, bath tubs, water heaters, sinks, bicycles, and other similar domestic appliances, household goods, and furniture..

Collection Unit: any parcel of improved real property located within Wellington that generates or is capable of generating solid waste and that contains buildings, structures, or other improvements designed or constructed for and capable of use by or used for human habitation, human activity, or commercial enterprises.

Collection: the process whereby solid waste, garbage, trash, bulk trash, vegetative waste, recyclable materials, and C&D is removed and transported to a designated facility.

Commercial Recycling Collection Service: the collection of recyclable materials by a contractor for entities within the service area that are not serviced by residential recycling collection service.

Commercial Solid Waste: includes any garbage, bulk trash, trash, or vegetative waste that is not residential solid waste.

Commercial Solid Waste Collection Service: the collection of the commercial solid waste within the service area. Such service includes both containers and compactors, but does not include roll-off collection services.

Compactor: any container that has compaction mechanisms, whether stationary or mobile.

Construction and Demolition Debris (C&D): 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 includes 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 C&D with other types of solid waste will cause the resulting mixture to be classified as other than C&D. The term also includes:

- (a) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project;
- (b) Except as provided in F.S. § 403.707(9)(j), yard trash and unpainted, nontreated wood scraps and wood pallets from sources other than construction or demolition projects;
- (c) Scrap from manufacturing facilities that is the type of material generally used in construction projects and that would meet the definition of construction and demolition debris if it were generated as part of a construction or demolition project.

This includes debris from the construction of manufactured homes and scrap shingles, wallboard, siding concrete, and similar materials from industrial or commercial facilities; and

(d) 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.

Container: includes any encasement designed or intended to be mechanically dumped into a loader packer type truck or recycling vehicle. All containers must be of the specifications designated by the contract administrator, in writing.

Containerized Residential Recycling Collection Services: the collection of recyclable materials by the contractor from dwelling units in the service area that requires the use of containers for the collection of recyclable materials and which also receive residential collection services for solid waste, and the delivery of those recyclable materials to a materials recycling facility.

Containerized Residential Solid Waste Collection Service: solid waste collection service of all dwelling units whose garbage, trash, bulk trash, or vegetative waste is collected by means of a central or shared container and not by means of a garbage can.

Contract: an agreement, executed between Wellington and the contractor for the performance of the specified solid waste and recycling collection work, as amended from time to time.

Contractor: the person, firm, corporation, or entity designated by Wellington to perform the specified services in accordance with the terms of the contract.

Contract Administrator: the person designated by Wellington to act as its representative in the administration and supervision of the contract and any other agreements relating to the solid waste management and solid waste collection program.

Curbside Residential Recycling Collection Service: the collection of recyclable materials by a contractor from all dwelling units in the service area that also receive curbside residential solid waste collection service for solid waste and other dwelling units as are designated by Wellington.

Curbside Residential Solid Waste Collection Service: residential solid waste and vegetative waste collection service for all dwelling units whose garbage is collected by means of a garbage can at curbside or roadway.

Disposal costs: the "tipping fees" or landfill costs charged by others for disposal of the waste collected.

Designated Facility: a solid waste authority or Palm Beach County owned disposal, processing, recovery, recycling or transfer facility, or a processing facility permitted by the solid waste authority of Palm Beach County.

Dwelling Unit: type of structure or building unit intended for or capable of being utilized for residential living other than a licensed hotel or motel unit.

Fiscal Year: the period between October 1 of a given year and September 30 of the following year.

Garbage: all putrescible waste, which generally includes but is not limited to, kitchen and table food waste, animal, food, or any organic waste that is attendant with or results from the storage, preparation, cooking or handling of food materials whether attributed to residential or commercial activities. Garbage does not include vegetative waste or any material that falls within the definition of special waste.

Garbage Receptacle or Can: any commonly available light gauge steel, plastic, or galvanized receptacle of a nonabsorbent material, closed at one end and open at the other, furnished with a closely fitted top or lid and handles. A garbage can is also defined as a heavy duty, securely tied, plastic bag designed for use as a garbage receptacle. Such container, including materials, shall not exceed 50 gallons in capacity or 50 pounds in weight, unless a contractor implements (with written authorization from the contract administrator or their designee) an automated or semi-automated collection system requiring the use of some other standard receptacle compatible with the contractor's equipment supplied by the contractor and approved by Wellington. A cardboard box may also be used as a garbage can, provided the contents do not contain a level of moisture as to saturate the box and weaken its walls.

Governmental Agencies: all state, federal, and local units of government, or any agency or department thereof, who is the owner of any collection unit within Wellington.

Hazardous Waste: solid waste, or a combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. The term does not include human remains that are disposed of by persons licensed under chapter 497, Florida Statutes.

Hotel or Motel: a structure or building unit capable of being utilized for residential living where such unit or a group of such units is regularly rented to transients or held out or advertised to the public as a place regularly rented to transients for periods of seven days or less. To meet this definition, the hotel or motel must be licensed to operate as such. "Transient" has the meaning set forth in F.S. ch. 509, as amended from time to time.

Litter: solid waste or any other waste material that is thrown, cast, scattered, dropped, spilled or deposited on public or private property, including rights-of-way and parking lots,

through intent or negligence, which tends to create a danger to public, health, safety, and welfare.

Materials Recycling Facility: any facility operated or managed by, for, or on behalf of Wellington for the purpose of receiving, sorting, processing, storing, and/or preparing recyclable materials for sale, as specifically designated by the contract administrator, in writing.

Nonassessed Unit: any collection unit or portion thereof that is not an assessed unit.

Owner: the person or persons owning an interest in a collection unit, assessed unit, or nonassessed unit.

Person: any natural person, or partnership, firm, corporation, or other legal entity.

Property Appraiser: the Palm Beach County Property Appraiser.

Rate Resolution: resolutions of the Wellington Council relating to rates and fees charged for the operation, maintenance, and administration of the solid waste program and mandatory solid waste collection program.

Recyclable Materials: those materials that are capable of being recycled and that would otherwise be processed or disposed of as solid waste.

Recycling: any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Residential Recycling Collection Service: includes both curbside residential recycling collection service and containerized residential recycling collection service.

Residential Solid Waste: garbage, trash, and bulk trash resulting from the normal housekeeping activities of a dwelling unit, but shall not include vegetative waste. Residential solid waste also includes C&D resulting from minor home repair from the dwelling unit.

Residential Solid Waste Collection Service: includes curbside residential solid waste collection service and containerized residential solid waste collection service.

Roll-off Collection Service: the collection of C&D only roll-off containers, or the collection of C&D by other mechanical means, within temporary locations in the service area, limited to new construction sites and remodeling or refurbishment sites. Roll-off collection service also includes the collection of horticultural or agricultural wastes at horticultural or agricultural nurseries, but only when the customer chooses to use roll-off containers for horticultural or agricultural waste, and horticultural and agricultural waste does not include any other type of waste, including, but not limited to, special waste, garbage, or recyclable material.

Roll-off Collection Service Provider: the persons, firms, corporations, or other legal entities permitted by Wellington to provide temporary roll off or similar C&D collection services within the service area in accordance with terms and conditions established by Wellington.

Service Area: the area within the incorporated boundaries of Wellington for which the solid waste management and mandatory solid waste collection program is administered as provided in the contract as it may be amended from time to time.

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

Solid Waste: sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials and post-use polymers as defined in section 403.703, F.S. are not solid waste.

Solid Waste Collection Program: the services and means of collecting solid waste from a collection unit through the use of equipment, trucks, containers, personnel, contracted or permitted services, and all real or personal property owned, leased, operated or used by Wellington for the purpose of providing the solid waste collection services generally described in this article.

Solid Waste Collection Special Assessment: the special assessment imposed by Wellington upon an assessed unit for the collection of solid waste for the applicable fiscal year based upon the classification of the use of such assessed unit as set forth in the rate resolution. The solid waste collection special assessment does not include the cost of disposal of such collected solid waste since the cost of disposal of such solid waste has been separately imposed upon such assessed unit by the authority.

Solid Waste Collection Special Assessment Roll: the list prepared by and adopted by Wellington each fiscal year containing a summary description of each assessed unit, the name and address of the owner of each such assessed unit as indicated on the records maintained by the property appraiser, and the amount of the solid waste collection special assessment applicable to each assessed unit.

Solid Waste Management Program: the program of managing the generation, storage, collection, transporting, processing, and disposal of solid waste within Wellington. The program provides for the regulation, permitting, contracting, and enforcement of all aspects of this program.

Special Services: any services requested or required by the customer that are in addition to, or a change in, residential solid waste collection service, residential recycling collection service, commercial recycling collection service, and commercial solid waste collection service as set out or similar to those provided for in the contract.

Special Waste: includes automobiles, boats, internal combustion engines, non-automobile tires, sludge, dead animals, septic tank waste, biohazardous or biomedical waste, liquid waste, and hazardous waste. Special waste may also include items determined by the contract administrator to be reasonably unmanageable.

Tax Collector: the Palm Beach County Tax Collector.

Trash: all refuse, accumulation of paper, rags, wooden or paper boxes and containers, sweepings, broken toys, tools, utensils, and all other accumulations of a similar nature other than garbage, which are usual to housekeeping and to the operation of stores, offices, and other business places, but does not include vegetative waste.

Uncontrollable Forces: any event that results in the prevention or delay of performance by a party of its obligations under the contract and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fires, flood, hurricanes, earthquakes, storms, lightening, epidemic, war, riot, civil disturbances, sabotage, and governmental actions.

Uniform Method: the "Uniform Method for the Levy, Collection and Enforcement of Non-Ad Valorem Assessments" prescribed by F.S. ch. 197, as amended and supplemented.

Vegetative Waste: any vegetative matter resulting from yard and landscaping maintenance by any person and includes materials such as tree and shrub materials, grass clippings, palm fronds, tree branches, and similar other matter usually produced as refuse in the care of lawns, landscaping, and yards. All grass clippings, leaves, pine needles, and similar loose items must be bagged or containerized. Vegetative waste, except palm fronds, must be no more than six feet in length and no single item shall weigh more than 50 pounds, and shall be placed neatly at the curb. Natural Christmas trees will be collected as vegetative waste and any section must not be more than eight feet in length and must be under 50 pounds.

Waste: material that is not wanted, the unusable remains or byproducts of something. Waste includes refuse, litter, debris, junk, scrap, dregs, rubbish, and trash.

Sec.17-5: Utilization of Uniform Method for the Levy, Collection and Enforcement of Solid Waste Collection Special Assessments

Wellington shall utilize the uniform method for the levy, collection, and enforcement of the solid waste collection special assessments provided by this article. All provisions set forth in the uniform method shall be applicable to the levy, collection, and enforcement

of the solid waste collection special assessments, as if fully set forth herein, unless otherwise provided in this article.

Sec. 17-6: Public Hearing for Adoption of Budget; Determination of Service Area, Collection Units and Assessed Units; Adoption of Non-ad Valorem Special Assessment Rate Resolution

In addition to the provisions set forth in the uniform method, Wellington shall hold a public hearing on or before September 15 of each fiscal year for the following purposes:

- (1) *Budget.* To adopt a budget for the operation, maintenance, and administration of the solid waste collection program for the ensuing fiscal year. Budget items may include but are not limited to monies for the payment of the principal of and interest on bonds and other outstanding or anticipated indebtedness, all reserves necessary for the payment of capital expenditures, funding renovation, improvements, and replacements of existing facilities or equipment, expenditures for daily operations for the solid waste collection program, and for the enforcement and administration of the billing and collection of the solid waste collection special assessment provided for hereunder. The budget may also include necessary reserves for anticipated delinquent or uncollectible solid waste collection special assessment and for the payment of the current operation and maintenance and administration of the solid waste collection program.
- (2) *Service area, collection units and assessed units.* To define the service area and determine the collection units and assessed units based upon circumstances affecting the collection of solid waste and the operation of the solid waste collection program including, but not limited to, the cost of operating, maintaining, and administering the solid waste collection program and the benefit to all assessed units in Wellington.
- (3) *Rate resolution.*
 - a. To adopt a rate resolution incorporating a schedule of solid waste collection special assessment to be imposed upon the owners of all assessed units in the service area and to establish the classification of the use of each assessed unit in order to provide revenues which, together with other monies of Wellington lawfully available therefor, shall be sufficient to fund the budget referred to in the aforementioned subsection (1). The rate resolution shall also include the disposal costs of the solid waste collected from the assessed units unless the disposal costs of such solid waste, or any portion thereof, has been separately imposed upon such assessed unit of real property.
 - b. The rates established by Wellington in each year under the provisions of the rate resolution shall be sufficient to provide monies for the purposes described in subsection (1) and Wellington shall not establish rates over and above the rates that are necessary to comply with the provisions of subsection (1) and the budgetary requirements of any proceedings of Wellington heretofore or hereafter adopted in connection with the issuance of any of its bonds, notes, or other evidences of indebtedness.

- c. The solid waste collection special assessment incorporated in the rate resolution applicable to each assessed unit shall be the solid waste collection special assessment for each such assessed unit for the collection and disposal, unless otherwise assessed pursuant to this article, of all solid waste generated or capable of being generated as determined by Wellington on each such assessed unit during the ensuing fiscal year.
- d. The solid waste collection special assessment shall be imposed against the owners of all assessed units in Wellington if such real property is an assessed unit on or before the first day of January prior to the fiscal year in which the solid waste collection special assessment is imposed. The owner and description of each assessed unit at the time of preparing such assessments shall be that designated on the real property records maintained by the property appraiser.
- e. To the extent a budget has not been adopted by the Wellington Council for the operation, maintenance, and administration of the solid waste collection program for the ensuing fiscal year by September 30, then the budget and rate resolution from the preceding fiscal year will constitute the budget and rate resolution.

Sec. 17-7: Adoption and Certification of the Solid Waste Collection Special Assessment Roll

In accordance with the procedures set forth in the uniform method, the Wellington Council will adopt and certify the solid waste collection special assessment roll.

Sec. 17-8: Solid Waste Collection Special Assessments Shall Constitute a Lien on Improved Real Property

All solid waste collection special assessments imposed against the owners of assessed units pursuant to this article shall constitute, and are hereby imposed as, liens against such real property as of January 1 of each year or as soon thereafter as the certified roll is received by the tax collector. Until fully paid and discharged or barred by law, the solid waste collection special assessments shall remain liens against the real property involved. If any solid waste collection special assessment liens become delinquent by not being fully paid by April 1 following the year in which they are assessed, or immediately after 60 days have expired from the mailing of the original notice set forth by the uniform method, whichever is later, and remain delinquent, such liens shall be enforced by the tax collector in the same manner as any other special assessment lien of Wellington.

Sec. 17-9: Applicability of Solid Waste Collection Special Assessments to Assessed Units Owned by Governmental Agencies

- (a) Any governmental agency owning any assessed unit within Wellington shall pay the solid waste collection special assessment imposed under the applicable classification specified in the rate resolution.

- (b) The discounts for early payment are not applicable to the solid waste collection special assessments imposed against governmental agencies. Such governmental agencies shall pay the full solid waste collection special assessment imposed.
- (c) The solid waste collection special assessments imposed against governmental agencies shall become delinquent if not fully paid within 60 days from the date the notice of such solid waste collection special assessments are mailed. All delinquent solid waste collection special assessments shall bear an initial penalty of four percent of the full amount of the solid waste collection special assessment if not paid by the expiration of such 60-day period and an additional penalty of one percent per month on the delinquent amount plus the initial penalty on the first day of the first month following the expiration of such 60-day period and on the first day of each month thereafter until said solid waste collection special assessments are paid in full.
- (d) The provisions of this article regarding liens and enforcement are not applicable to the solid waste collection special assessments imposed against assessed units owned by governmental agencies. However, Wellington shall have the authority to enforce the collection of any delinquent solid waste collection special assessment by the institution of an appropriate action against the governmental agency in a court of competent jurisdiction for a judgment for the amount due for such solid waste collection special assessment, including all penalties, plus costs and a reasonable attorney's fee.
- (e) Wellington is exempt from the provisions of this article.

Sec. 17-10: Applicability of Solid Waste Collection Special Assessments to Tax Exempt Assessed Units

The exemption of property from taxation under F.S. ch. 196, or any other law or constitutional provision, shall not relieve the owner of any assessed unit in Wellington from the provisions hereof or from the imposition by Wellington of the solid waste collection special assessment.

Sec. 17-11: Procedural Irregularities

Any informality or irregularity with the proceedings in connection with the levy of the solid waste collection special assessment under the provisions of this article shall not affect the validity of the same after the approval thereof, and any solid waste collection special assessment as finally approved shall be competent and substantial evidence that such solid waste collection special assessment was duly made and adopted and that all other proceedings adequate to such solid waste collection special assessment were duly had, taken, and performed as required by this article and the uniform method. No variance from the directions hereunder shall be held material unless it is clearly shown that the objecting party was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a solid waste collection special assessment imposed pursuant to this article must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

Sec. 17-12: Correction of Errors and Omissions

- (a) No act of error or omission on the part of the property appraiser, tax collector, clerk, Wellington Council, or their agents or employees shall operate to release or discharge any obligation for the payment of any solid waste collection special assessment imposed by the council under the provisions of this article.
- (b) After the solid waste collection special assessment roll has been delivered to the tax collector in accordance with the uniform method, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

Sec.17-13: Residential Collection Service

- (a) The accessibility of all residential solid waste and the level of service regarding the frequency of pickup will be defined in the contract.
- (b) Wellington may impose, change, modify or delete the requirements setting forth the responsibilities of the owner or owners of an assessed unit and the contractor providing collection for such assessed unit regarding the method, scope, and extent of collection, including, but not limited to, frequency of pickups, classes of solid waste pickup, shape, size, and quantity per pickup, types of containers, and placement or location of solid waste for pick up, by articulating such requirements in a separate ordinance.

Sec. 17-14: Responsibilities of the Solid Waste and Recycling Collection Contractor and Roll-off Collection Service Provider

The contractor and roll-off collection service provider shall comply with all provisions of the contract and the agreements entered into with Wellington and the provisions of this article which, by reference, incorporates all federal, state, county, and local units of government with jurisdiction in Wellington, together with laws, regulations, and ordinances applying to the storage, collection, transport, processing or disposal of solid waste, garbage, trash, bulk trash, vegetative waste, C&D, and recyclable materials.

Sec. 17-15: Nonassessed Residential Units

- (a) All solid waste generated or accumulated by a nonassessed residential unit shall be collected, conveyed, and transported by the contractor within the service area in which the nonassessed unit is located, except for solid waste requiring roll-off collection service. The owners of all nonassessed units on the established route of the contractor for such service area in which the nonassessed unit is located shall use the mandatory solid waste collection program.
- (b) Wellington shall establish a fee for mandatory solid waste and recycling collection service for nonassessed residential units that have been issued a certificate of occupancy, either permanent or temporary, for full or fractional use of the premises.

- (c) Wellington shall establish the fee for the mandatory solid waste and recycling collection program for nonassessed residential units annually by resolution.
- (d) Roll-off collection service for residential sites under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements of the mandatory collection program but shall be regulated as provided in section 17-20 hereof.

Sec. 17-16: Nonassessed nonresidential units

- (a) All solid waste generated or accumulated by a nonassessed nonresidential unit shall be collected, conveyed and transported by the contractor within the service area in which the nonassessed unit is located, except for solid waste requiring roll-off collection service. The owners of all nonassessed units on the established route of the contractor for such service area in which the nonassessed unit is located shall use the mandatory solid waste collection program.
- (b) Nonassessed nonresidential units shall comply with the provisions of this article and the contract pertaining to the frequency, conditions and manner of the collection of solid waste.
- (c) The fee for the mandatory solid waste and recycling collection program for nonassessed nonresidential units shall be established by Wellington by resolution.
- (d) Roll-off collection service for sites, other than residential, under construction during the period prior to the issuance of a certificate of occupancy shall not be included within the requirements of the mandatory collection program but shall be regulated as provided in section 17-20 hereof.

Sec. 17-17: Roll-off Collection Service Provider

- (a) Any person wishing to provide roll-off collection service within Wellington shall be required to have a valid permit issued by Wellington to provide said services as set forth herein.
- (b) Wellington shall establish a process for issuing permits for roll-off collection service. Said process shall include, but not be limited to, an application requiring specific information and containing terms and conditions for administering the permit, establishment of permit fees, and penalties for violation, including loss of permit.
- (c) Permit fees for the right to provide roll-off collection service within Wellington shall be adopted by Wellington Council resolution and shall be used for any lawful purpose within Wellington's solid waste management program.
- (d) For purposes of this section, roll-off collection service shall include solid waste specifically excluded from the contract.

Sec. 17-18: Ownership of Solid Waste and Recyclable Material

Ownership of solid waste and recyclable materials collected pursuant to the contract shall be vested in Wellington.

Sec. 17-19: Frequency of Collection

All solid waste and recyclable materials shall be collected in accordance with the provisions of the contract, except as may be changed by Wellington due to uncontrollable forces or changes in technology.

Sec.17-20: Equipment

Equipment used within Wellington for the storage and collection of solid waste, recyclables, and C&D shall, at all times, be in safe operating condition, clean, in good repair, and display the company name and local telephone number in letters and numbers at least five inches high.

Sec. 17-21: Control and Management of Solid Waste at Construction Sites

- (a) All construction sites, which includes demolition for purposes of this article, shall be required to have sufficient number and capacity of open top roll-off containers to adequately handle all waste generated at the site in a manner whereby no container is overfilled.
- (b) All contractors are required to secure construction roll-off container service from firms permitted by Wellington to offer said services.
- (c) General contractors shall be required to control all litter and waste generated at construction sites, including waste generated by all subcontractors and construction workers. General contractors shall be subject to payment of fines and penalties established by Wellington for failing to control litter and waste associated with their construction projects on the project property.
- (d) Exceptions to these requirements include those exceptions set forth in the contract and those that may be provided by Wellington through the contract administrator.

Sec. 17-22: Unauthorized Accumulations Prohibited

- (a) Any unauthorized accumulation of solid waste, trash, bulk trash, vegetative waste, and C&D on any premises is prohibited and may be subject to penalties as established by Wellington.
- (b) Back yard composting of household material described by the authority is excluded from subsection (a) above, as is stable waste and vegetative waste provided that the activity does not generate noxious odors or attract vermin, and is screened from public view.

Sec. 17-23: Littering

No person shall deposit solid waste, garbage, trash, bulk trash, vegetative waste, recyclable materials and C&D within Wellington on public or private property except in a receptacle intended for said waste, nor shall any person place such materials in any location other than on the property of Collection Unit that generated such waste.

Sec. 17-24: Enforcement

It shall be unlawful for any person to fail, neglect, or refuse to comply with and abide by each provision of this article. Violations of this article shall be enforced pursuant to the Supplemental Code Compliance Procedures adopted pursuant to Chapter 162, Part II, Florida Statutes, and set forth in Chapter 2 of this Code. The performance on each day of any prohibited act or practice or the failure to perform on each day of any required act or practice shall constitute a separate offense and shall be punishable as such.