

1<sup>st</sup> Reading June 14, 2021

2<sup>nd</sup> Reading July 12, 2021

**ORDINANCE 2021-02**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA, TO AMEND ORDINANCE 2017-7 “SOLID WASTE COLLECTION” TO AUTHORIZE AND PROVIDE FOR THE LEVY AND COLLECTION OF A RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT RELATED TO THOSE SERVICES WITHIN CITY OF WESTLAKE; AMENDING DEFINITIONS IN ORDINANCE 2017-7 AND PROVIDING FOR ADDITIONAL DEFINITIONS AND FINDINGS RELATING TO THE SPECIAL ASSESSMENT; CREATING A NEW SECTION 10A TO ORDINANCE 2017-7, ENTITLED “RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT,” AND SUBSECTIONS 10A-1 THROUGH 10A-19, AUTHORIZING THE IMPOSITION AND COLLECTION OF A RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF THE RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT ROLL AND FOR CORRECTING ERRORS AND OMISSIONS; PROVIDING THAT RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT ROLL; ESTABLISHING PROCEDURES AND METHODS FOR THE COLLECTION OF A RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS; ESTABLISHING THE PRIORITY OF THE LIEN OVER PRIOR RECORDED LIENS OR MORTGAGES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, on January 8, 2018, the City Council of the City of Westlake enacted Ordinance 2017-7 to provide for a mandatory solid waste collection program, and that the City would provide for the collection of solid waste, bulk waste, vegetative waste and recyclable materials from all residential dwelling units in the City; and,

**WHEREAS**, Ordinance 2017-7 included definitions and other matters that provide for the intent of the City to enter into a services contract for solid waste and recycling services, as well as the levy of a special assessment to collect the costs of providing such services; and,

**WHEREAS**, the City Westlake has an Agreement with Advanced Disposal Services/Solid Waste Southeast, Inc., dated July 22, 2019 (hereinafter the “Contract”), pursuant to which the City provides Residential Solid Waste and Residential Recycling Collection Services to, among others, all residential properties that receive Residential Solid Waste Services within the City; and,

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**WHEREAS**, the City believes it is in the best interests of the residents and residential properties owners to collect funds for the costs of the City's Residential Solid Waste Services, including the costs of collecting recyclable materials since that service is included in the charges for Residential Solid Waste Services, to all residential units that receive Residential Solid Waste Services from the City, through the Contract, with the levy and collection of a special assessment, as such will eliminate direct quarterly or monthly billing and charges to residents, permit the payment for the services on an annual basis along with properties taxes and other special assessments, reduce the administrative costs of the Residential Solid Waste Collection Program to the City, and ensure that all properties that receive Residential Solid Waste Services from the City through the Contract pay for such so that no property is over-charged by virtue of the failure of other properties to pay for such; and,

**WHEREAS**, Residential Solid Waste Services, as defined herein, by the City through the Contract provide the requisite special benefit to Assessed Property such that they may be funded through a special assessment; and,

**WHEREAS**, the City Council determines that it is fair and equitable to levy and collect a non-ad valorem special assessment to fund the Residential Solid Waste Services provided by the City through the Contract or residential units, consistent with the methodology and allocation as provided hereinafter.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA:**

**Section 1.** Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

**Section 2.** Amendment to Ordinance 2017-7: Section 4, entitled "Definitions":  
The City Council hereby amends Ordinance 2017, Section 4 entitled "Definitions" as follows:

Definitions. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

- (1) *Assessed ~~Unit~~Property* means any Collection unit which is subject to the Solid Waste Collection Special Assessment.
- (2) *Authority* means the Solid Waste Authority of Palm Beach County.
- (3) *Biohazardous or biomedical waste* shall mean those wastes which may cause disease or reasonably be suspected of 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;

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parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves.

(4) *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.

(5) City means City of Westlake, Florida, a municipal corporation duly organized and validly existing under the laws of the State of Florida.

(6) City Manager means the City Manager of the City, or such person's designee.

(7) City Council means the City Council for the City.

(8) Clerk means the City Clerk, or such other person as may be duly authorized to act on such person's behalf.

~~(5)~~(9) *Collection unit* means any parcel of improved real property located within the city 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.

~~(6)~~(10) *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.

~~(7)~~(11) *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.

~~(8)~~(12) *Commercial Solid Waste* shall include any garbage, bulk trash, trash or vegetative waste that is not residential solid waste. Substantial effort shall be make not to commingle garbage, trash or bulk trash with vegetative waste.

~~(9)~~(13) *Commercial Solid Waste Collection Service* includes 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.

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~~(10)~~(14) *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.

~~(11)~~(15) *Compactor* shall mean a container which has compaction mechanisms(s) whether stationary or mobile, all inclusive.

~~(12)~~(16) *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.

~~(13)~~(17) *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 City Manager, or designee, in writing.

~~(14)~~(18) *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.

~~(15)~~(19) *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.

~~(16)~~(20) *Contract* shall mean an agreement, executed between the City and the contractor for the performance of the specified solid waste and recycling collection agreement, as amended from time to time.

~~(17)~~(21) *Contractor* means the person, firm, corporation or entity designated by the City to perform the specified services in accordance with the terms of the contract.

~~(18)~~(22) *Contract Administrator* shall mean the person(s) designated by the City Manager who shall act as the City'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.

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~~(19)~~(23) *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 for solid waste and other dwelling units as are designated by the city, and the delivery of those recyclable materials to the solid waste authority's materials recycling facility or designated solid waste authority transfer station.

~~(20)~~(24) *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.

~~(21)~~(25) *Department* shall mean the Florida Department of Environmental Protection.

~~(22)~~(26) *Disposal Costs* shall mean the "tipping fees" or landfill costs charged by others for disposal of the waste collected.

~~(23)~~(27) *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.

~~(24)~~(28) *Dwelling Unit* shall mean type of structure or building unit intended for a capable of being utilized for residential living other than a licensed hotel or motel unit, for which a certificate of occupancy has been issued by the City.

~~(25)~~(29) *Fiscal Year* means the period between October 1 of a given year and September 30 of the following year.

(30) *Final Assessment Resolution* means the Resolution described in Section 10A-8 hereof, which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of the initial Residential Solid Waste Services Special Assessment.

(31) *Fiscal Year* means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

~~(26)~~(32) *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 to be commingled with garbage in the same collection. Garbage shall not include any material that falls within the definition of special waste.

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~~(27)~~(33) *Garbage Receptacle or Can* shall mean any commonly available rotationally molded, rubberized, plastic, or galvanized receptacle of a non-absorbent 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 designated 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 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 city.

~~(28)~~(34) *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 city.

~~(29)~~(35) *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.

~~(30)~~(36) *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.

~~(31)~~(37) *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.

(38) *Initial Assessment Resolution* means the Resolution described in Section 10A-4 hereof, which shall be the initial proceeding for the imposition of the Residential Solid Waste Services Special Assessment.

~~(32)~~(39) *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.

~~(33)~~(40) *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.

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~~(34)~~(41) *Non-assessed Unit* means any collection unit or portion thereof that is not an assessed unit.

~~(42)~~ Ordinance means this Ordinance as amended from time to time.

~~(35)~~(43) *Owner* means the person or persons owning an interest in a collection unit, assessed unit or non-assessed unit.

~~(36)~~(44) *Person* means any natural person, or partnership, firm, corporation or other legal entity.

~~(45)~~ Preliminary Assessment Resolution means the Resolution described in Section 10A-9 hereof, which sets forth the preliminary assessment rates for the upcoming fiscal year, establishing the public hearing, and other related matters.

~~(37)~~(46) *Property Appraiser* means the Palm Beach County Property Appraiser.

~~(38)~~(47) *Public Awareness Program* shall mean that program developed by the City 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 City. It shall also mean information concerning level of service and changes in scope of service.

~~(39)~~ ~~Rate Resolution~~ means resolutions of the City described in this ordinance relating to rates and fees charged for the operation, maintenance and administration of the solid waste program and mandatory solid waste collection program.

~~(40)~~(48) *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 city 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.

~~(41)~~(49) *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.

~~(42)~~(50) *Recycling Container* shall mean a rigid container made of plastic or other suitable substance that is used for the storage of recyclable materials.

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~~(43)~~(51) *Residential Recycling Collection Service* shall mean curbside residential recycling collection services and containerized residential recycling collection service.

~~(44)~~(52) *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.

~~(45)~~(53) *Residential Solid Waste Collection ~~Services~~* shall mean curbside residential solid waste collection service and/or containerized residential solid waste collection service provided by the City for residential properties with dwelling units for which the City has issued certificates of occupancy.

(54) *Residential Solid Waste Services* shall mean, collectively, Residential Recycling Collection Services and Residential Solid Waste Collection Services.

(55) *Residential Solid Waste Services Special Assessment* means a special assessment imposed by the City upon residential properties within the City for which a certificate of occupancy has been issued by the City to fund, collectively, the City's provision of Residential Solid Waste Services to such properties, including Disposal Costs; provided that the Residential Solid Waste Collection Special Assessment may not include the Disposal Costs of such collected solid waste if the cost of disposal of such solid waste is separately imposed upon such assessed unit by the authority.

(56) *Residential Solid Waste Services Special Assessment Roll* means the roll created that includes all parcels within the City and their assigned Residential Solid Waste Services Special Assessment approved by a Final Assessment Resolution or an Annual Assessment Resolution pursuant to Sections 15-10 and 15-12 hereof.

(57) *Residential Solid Waste Services Cost* means the estimated amount for any Fiscal Year of all expenditures and reasonable reserves that are properly attributable to the Residential Solid Waste Services provided to Residential properties within the City under generally accepted accounting principles, including, without limiting the generality of the foregoing, contract costs and franchise fees charged by a service provider pursuant to an agreement with the City to provide the Residential Solid Waste Services, costs and charges for transporting residential solid waste for disposal, Disposal Costs, reimbursement to the City for any moneys advanced for the Residential Solid Waste Services, and costs associated with levying the special assessment, including, but not limited to, legal and administrative fees, and charges for services provided by the Palm Beach County Property Appraiser and Palm Beach County.

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~~(46)~~(58) *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 waste 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.

~~(47)~~(59) *Roll-off Collection Service Provider* shall mean the person(s), firm(s), corporation(s), or other legal entity(ies) permitted by the City to provide temporary roll off or similar C&D collection services within the service area in accordance with terms and conditions established by the city. The city 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.

~~(48)~~(60) *Service Area* shall mean the area within the incorporated boundaries of the City of Westlake, 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.

~~(49)~~(61) *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.

~~(50)~~(62) *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.

~~(51)~~(63) *Solid Waste Authority Disposal Facility* shall mean place or places specifically managed or operated by the solid waste authority of Palm Beach County.

~~(52)~~(64) *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 City of Westlake for the purpose of providing the solid waste collection services generally described in this ordinance.

~~(53)~~ ~~*Solid Waste Collection Special Assessment* means the special assessment imposed by the City of Westlake 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~~

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as set forth in the rate resolution. The solid waste collection special assessment may not include the cost of disposal of such collected solid waste if the cost of disposal of such solid waste is separately imposed upon such assessed unit by the authority.

~~(54)~~ (54) ~~*Solid Waste Collection Special Assessment Roll*~~ means the list prepared by and adopted by the City of Westlake 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.

~~(55)~~(65) *Solid Waste Management Program* means the program of managing the generation, storage, collection, transporting, processing and disposal of solid waste within the City of Westlake. The program provides for the regulation, permitting, contracting and enforcement of all aspects of this program.

~~(56)~~(66) *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.

~~(57)~~(67) *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.

~~(58)~~(68) *Tax Collector* means the Palm Beach County Tax Collector.

(69) *Tax Roll* means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

~~(59)~~(70) *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.

~~(60)~~(71) *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, lightning, epidemic, war, riot, civil disturbances, sabotage, and governmental actions.

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(72) Uniform Assessment Collection Act means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

~~(61) 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.~~

~~(62)~~(73) 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. AH 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.

**Section 3.** Amendment to Ordinance 2017-7: Section 10A, entitled "Residential Solid Waste Services Special Assessment": The City Council hereby amends Ordinance 2017, to add a new Section 10A entitled Residential Solid Waste Services Special Assessment," and subsections 10A-1 through 10A-19, as follows:

SECTION 10A – RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT

SECTION 10A-1. GENERAL FINDINGS. It is hereby ascertained,

determined, and declared that:

(A) Pursuant to Article VIII, Section 2(b), Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the City has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City ordinances.

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(B) The City Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Council may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are not relevant to the imposition of Residential Solid Waste Services Special Assessments by the City.

(C) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Residential Solid Waste Services Special Assessments under the constitutional and statutory power of the City; (2) authorize a procedure for the funding of Residential Solid Waste Services provided to Residential properties within the City; and (3) legislatively determine the special benefit provided to Assessed Properties from the Residential Solid Waste Services.

SECTION 10A-2. LEGISLATIVE DECLARATIONS OF SPECIAL BENEFIT. It is hereby ascertained and declared that the Residential Solid Waste Services provide a special benefit to the Assessed Property based upon the following legislative determinations:

(A) The recipients of the City's Residential Solid Waste Services will enjoy protection and enhancement of public health and safety by the provision of reliable and effective service to persons who own or use such property, and enrichment of property

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value and minimization of potential liability attendant with the use of the assessed property.

(B) The special benefit received by Assessed Property is the collection and removal and disposal of solid waste, and removal and processing of recyclable materials from the Assessed Properties through a service provided by the City that ensures that real properties do not become polluted or overrun by solid waste generated by the residential use on the property, or if no Solid Waste Services were made available the potential overrun of solid waste and recyclable materials onto the property from adjacent properties.

SECTION 10A-3. RESIDENTIAL SOLID WASTE SERVICES ASSESSMENTS AUTHORIZED. The City Council is hereby authorized to impose Residential Solid Waste Services Special Assessments against Residential property located within the City for which certificates of occupancy have been issued by the City. The Residential Solid Waste Services Cost may be assessed against such Residential properties within the City at a rate of assessment based upon the special benefit accruing to such property from the Residential Solid Waste Services provided by the City.

SECTION 10A-4. INITIAL ASSESSMENT RESOLUTION. The initial proceeding for imposition of the Residential Solid Waste Services Special Assessments shall be the City Council's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall (A) describe the Residential Solid Waste Services proposed for funding from the proceeds of the Residential Solid Waste Services Special Assessments; (B) estimate the

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Residential Solid Waste Services Cost; (C) describe the proposed method of apportioning the Residential Solid Waste Services Cost among the Assessed Properties, as applicable, such that the owner of any parcel of property can objectively determine the amount of the Residential Solid Waste Services Special Assessments upon the Assessed Property; and (D) include specific legislative findings that recognize the equity provided by the apportionment methodology and specific legislative findings that recognize the special benefit provided by the Residential Solid Waste Services.

SECTION 10A-5. RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT

ROLL.

(A) The City Manager shall prepare, or direct the preparation of, a preliminary Residential Solid Waste Services Special Assessment Roll that contains the following information:

(1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Residential Solid Waste Services Special Assessment;

(2) the name of the owner of record of each parcel as shown on the Tax Roll, in compliance with applicable state statutes on exempt and confidential information; and

(3) the estimated Residential Solid Waste Services Special Assessment to become due in the Fiscal Year;

(B) Copies of the Initial Assessment Resolution and the preliminary Residential Solid Waste Services Special Assessment Roll shall be on file in the office of the City Clerk

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and open to public inspection. The foregoing shall not be construed to require that the Residential Solid Waste Services Special Assessment Roll be in printed form if the amount of the Residential Solid Waste Services Special Assessment for each parcel of property can be determined by use of a computer terminal available for use by the public.

SECTION 10A-6. NOTICE BY PUBLICATION. After filing the Residential Solid Waste Services Special Assessment Roll in the office of the City Clerk, as required by Section 10A-5 hereof, the City Manager shall cause to be published once in a newspaper of general circulation within the City a notice stating that a public hearing of the City Council will be held on a certain day and hour, not earlier than twenty (20) calendar days from such publication, at which hearing the City Council will receive written comments and hear testimony from all interested persons regarding adoption of the Final Assessment Resolution in the initial year and Annual Assessment Resolution in subsequent years, and approval of the Residential Solid Waste Services Special Assessment Roll. Notwithstanding that the City may use a different collection procedure in any fiscal year, the published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act for purposes of the Residential Solid Waste Services Special Assessment.

SECTION 10A-7. NOTICE BY MAIL. In addition to the published notice required by Section 10A-6, the City Manager shall cause to be provided notice of the proposed Residential Solid Waste Services Special Assessments to the owner of each parcel of property subject to the Residential Solid Waste Services Special Assessments.

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The form of such notice shall conform to the requirements set forth in the Uniform Assessment Collection Act, notwithstanding that the City may use a different collection procedure in any fiscal year. The notice shall be mailed by either first class mail, or by use of the Annual Truth in Millage Notice should the City utilize the Uniform Assessment Collection Act, at least twenty (20) calendar days prior to the hearing to each property owner, at such address as is shown on the Tax Roll at the time the notices are prepared for mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Residential Solid Waste Services Special Assessment Roll nor release or discharge any obligation for the payment of a Residential Solid Waste Services Special Assessment imposed by the City Council pursuant to this Ordinance.

SECTION 10A-8. FINAL ASSESSMENT RESOLUTION. In the initial year of the Residential Solid Waste Services Special Assessment, at the time named in such notice, or such time to which an adjournment or continuance may be taken, the City Council shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Final Assessment Resolution which shall (A) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (B) approve the Residential Solid Waste Services Special Assessment Roll, with such amendments as it deems just and right; and (C) determine the method of collection. All objections to

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adoption of the Final Assessment Resolution shall be made in writing, and filed with the Clerk at or before the time or adjourned time of such hearing.

SECTION 10A-9. PRELIMINARY RATE RESOLUTION. Prior to the adoption of the Annual Assessment Resolution pursuant to Section 10A-10 herein, the City Council shall adopt a Preliminary Assessment Resolution, which shall include without limitation:

(A) A brief description of the Residential Solid Waste Services to be provided by the City;

(B) The amount of the cost of providing Residential Solid Waste Services to be assessed upon specially benefited properties within the City;

(C) Setting forth the date, time and location for the City Council to consider public comments on the adoption of the Annual Assessment Rate Resolution;

(D) Directing the City Manager, or designee, to update the Assessment Roll;  
and,

(E) Directing the requisite notice be provided to affected property owners for a public hearing to adopt the Annual Assessment Resolution.

SECTION 10A-10. ANNUAL ASSESSMENT RESOLUTION. During its budget adoption process, the City Council shall adopt an Annual Assessment Resolution for each Fiscal Year following adoption of the Final Assessment Resolution. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year. The Annual Assessment Resolution shall approve the Residential Solid Waste Services Special Assessment Roll for such Fiscal Year. The Residential Solid Waste Services Special

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Assessment Roll shall be prepared in accordance with the Preliminary Rate Resolution, as confirmed or amended by the Annual Assessment Resolution. The City shall provide notice to the owners of such property in accordance with Sections 15-6 and 15-7 hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution; provided that should the City use the Uniform Assessment Collection Act, a public hearing is necessary only when such is required under the Act. Failure to adopt an Annual Assessment Resolution during the budget adoption process for a Fiscal Year may be cured at any time.

SECTION 10A-11. EFFECT OF FINAL OR ANNUAL ASSESSMENT RESOLUTIONS.

The adoption of the Final Assessment Resolution or Annual Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the Residential Solid Waste Services Special Assessment Roll and the levy and lien of the Residential Solid Waste Services Special Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of City Council adoption of the Final Assessment Resolution or Annual Assessment Resolution. The Residential Solid Waste Services Special Assessments for each Fiscal Year shall be established upon adoption of the Final Assessment Resolution or Annual Assessment Resolution. The Residential Solid Waste Services Special Assessment Roll, as approved by the Final Assessment Resolution or Annual Assessment Resolution shall be delivered to

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the Tax Collector or such other official as the City Council, by Resolution, deems appropriate.

SECTION 10A-12. LIEN OF RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS.

(A) Upon adoption of the Final Assessment Resolution or Annual Assessment Resolution for each Fiscal Year, the Residential Solid Waste Services Special Assessment to be collected under the Uniform Assessment Collection Act shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or Annual Assessment Resolution and shall attach to the property included on the Residential Solid Waste Services Special Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) For Residential Solid Waste Services Special Assessments to be collected under the alternative method of collection provided in Section 10A-14, the adoption of the Final Assessment Resolution or Annual Assessment Resolution shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, titles and

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claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the Official Records of Palm Beach County, Florida.

SECTION 10A-13. METHOD OF COLLECTION OF RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS. Unless directed otherwise by the City Council, the Residential Solid Waste Services Special Assessment shall be collected pursuant to the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions thereof. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

SECTION 10A-14. ALTERNATIVE METHOD OF COLLECTION OF THE RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT. In lieu of using the Uniform Assessment Collection Act, the City may elect to collect the Residential Solid Waste Services Special Assessment by any other method which is authorized by law or under an alternative collection method provided by this Section.

(A) The City shall have the right to record a lien for unpaid assessments in the public records of Palm Beach County, Florida.

(B) The City shall have the right to appoint or retain an agent to foreclose and collect all delinquent Residential Solid Waste Services Special Assessments in the manner provided by law. A Residential Solid Waste Services Special Assessment shall become delinquent if it is not paid within thirty (30) days from the date any payment is due. In the event the City exercises its rights to foreclose and collect a delinquent Residential Solid Waste Services Special Assessment, the City or its agent shall notify any property

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owner who is delinquent in payment of his or her Residential Solid Waste Services Special Assessment within sixty (60) days from the date the Residential Solid Waste Services Special Assessment was due. Such notice shall state in effect that the City or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Residential Solid Waste Services Special Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(C) All costs, fees and expenses, including reasonable attorney fees and title search expenses related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as an individual person or corporation. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent Residential Solid Waste Services Special Assessments and any other costs incurred by the City as a result of such delinquent Residential Solid Waste Services Special Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(D) In lieu of foreclosure, any delinquent Residential Solid Waste Services Special Assessment and costs, fees, and expenses attributable thereto, may be rolled into the Special Assessment for such parcel in a subsequent fiscal year.

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(E) In lieu of foreclosure, any delinquent Residential Solid Waste Services Special Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law and this Ordinance; and (2) any existing lien of record on the affected parcel for the delinquent Residential Solid Waste Services Special Assessment is supplanted by the lien resulting from certification of the Residential Solid Waste Services Special Assessment Roll to the Tax Collector.

SECTION 10A-15. REVISIONS TO RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENTS. If any Residential Solid Waste Services Special Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the City Council is satisfied that any such Residential Solid Waste Services Special Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Council has failed to include any property on the Residential Solid Waste Services Special Assessment Roll that should have been so included, the City Council may take all necessary steps to impose a new Residential Solid Waste Services Special Assessment against any such property, following as nearly as may be practicable the provisions of this Ordinance and in case such second Residential Solid Waste Services Special Assessment is annulled, the City Council may obtain and impose other Residential Solid Waste Services Special Assessments until a valid Residential Solid Waste Services Special Assessment is imposed.

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SECTION 10A-16. PROCEDURAL IRREGULARITIES. Any irregularity in the proceedings in connection with the levy of any Residential Solid Waste Services Special Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Residential Solid Waste Services Special Assessment as finally approved shall be competent and sufficient evidence that such Residential Solid Waste Services Special Assessment was duly levied, that the Residential Solid Waste Services Special Assessment was duly made and adopted, and that all other proceedings adequate to such Residential Solid Waste Services Special Assessment were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section, any party objecting to a Residential Solid Waste Services Special Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in Section 10A-11 of this Ordinance.

SECTION 10A-17. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the City Council, City Manager, Property Appraiser, Tax Collector, City Clerk, or their respective deputies, employees or designees, shall operate to release or discharge any obligation for payment of any Residential Solid Waste Services Special Assessment imposed by the City Council under the provisions of this Ordinance.

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(B) The assessment amount on any Assessed Property may be corrected at any time by the City Manager when an error is confirmed. Any such correction which reduces a Residential Solid Waste Services Special Assessment shall be considered valid from the date on which the Residential Solid Waste Services Special Assessment was imposed and shall in no way affect the enforcement of the Residential Solid Waste Services Special Assessment imposed under the provisions of this Ordinance. Any such correction which increases a Residential Solid Waste Services Special Assessment or imposes a Residential Solid Waste Services Special Assessment on omitted property shall first require notice to the affected owner in the manner described in Section 10A-7 hereof, providing the date, time and place that the City Council will consider confirming the correction and offering the owner an opportunity to be heard.

(C) After the Residential Solid Waste Services Special Assessment Roll has been delivered to the Tax Collector, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

SECTION 10A-18. APPLICABILITY. This Ordinance and the City's authority to impose the Residential Solid Waste Services Special Assessment pursuant hereto shall be applicable throughout the City.

SECTION 10A-19. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the completing the tasks set forth herein, and shall be regarded as supplemental and additional to powers conferred by

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other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

**SECTION 4. Codification.** It is the intention of the City Council of the City of Westlake that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Westlake, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

**SECTION 5. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

**SECTION 6. Severability.** Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

**Section 7. Effective Date.** This ordinance shall be effective upon adoption on second reading.

**PASSED** this 14<sup>th</sup> day of June, 2021, on first reading.

**PUBLISHED** on this 2<sup>nd</sup> day of July, 2021 in the Palm Beach Post.

**PASSED AND ADOPTED** this 12<sup>th</sup> day of July, 2021, on second reading.

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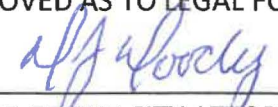
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\_\_\_\_\_  
City of Westlake  
Roger Manning, Mayor

ATTEST:

  
\_\_\_\_\_  
Zoie Burgess, City Clerk

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

  
\_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY

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