

ORDINANCE NO. 2017-7

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING MANDATORY SOLID WASTE COLLECTION WITHIN THE CITY OF WESTLAKE, WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED "SOLID WASTE COLLECTION", PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the purposes of this ordinance is to promote the health, safety, welfare and safety for the residents in the City of Westlake, 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, through an interlocal agreement, or as otherwise determined by the city; and

WHEREAS, 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 city, any filth, dirt, garbage, trash, refuse or other deleterious materials; and

WHEREAS, all improved properties located within the city 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; and

WHEREAS, all improved properties located within the city 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; and

WHEREAS, the management of solid waste through regulation, penalties and enforcement is a proper and necessary function of local government; and

WHEREAS, the properties that are under construction or demolition shall be prima facie evidence that solid waste is being produced by or accumulate upon such property; and

WHEREAS, 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 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 ordinance; and

WHEREAS, roll-off collection service for site 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 the city's solid waste management program and regulations; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

Section 1. Incorporation: That the recitals above are true and correct and incorporated into the findings of this Resolution as if set forth in full herein.

Section 2. Solid Waste Collection: The City of Westlake hereby adopts a mandatory solid waste collection program to promote the health, safety, and of the residents within the City of Westlake by requiring garbage and trash removed of and disposed of pursuant to the provisions contained herein for residential and commercial locations. The city shall provide for the collection of solid waste, bulk waste, vegetative waste and recyclable materials for all residential dwelling units within the city. All property owners shall be responsible for the payment of all applicable fees and charges for said services.

Section 3. Authority:

- (1) The authority to regulate the collection, removal and disposition of all solid waste, bulk waste, vegetative waste and/or recyclable materials within the municipal limits of the City is exclusively vested in the municipal government of the City of Westlake.
- (2) The City Manager shall have the authority to make rules and regulations, provided they are not contrary to the provisions of this chapter: and shall be empowered to promulgate and distribute such rules by mail, publication, personal service or posting on the premises where solid waste bulk waste, vegetative waste and/or recyclable materials are generated or accumulated.
- (3) From time to time the city shall publish and distribute a bulletin which outlines collection procedures and schedules as well as other information deemed necessary by the City Manager.

Section 4. Definitions:

- (1) *Assessed Unit* 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; 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) *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) *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) *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) *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.
- (9) *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.
- (10) *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) *Compactor* shall mean a container which has compaction mechanisms(s) whether stationary or mobile, all inclusive.
- (12) *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) *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) *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) *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) *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) *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) *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.
- (19) *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) *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) *Department* shall mean the Florida Department of Environmental Protection.
- (22) *Disposal Costs* shall mean the "tipping fees" or landfill costs charged by others for disposal of the waste collected.
- (23) *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) *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.
- (25) *Fiscal Year* means the period between October 1 of a given year and September 30 of the following year.
- (26) *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.
- (27) *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) *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) *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) *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) *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.
- (32) *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) *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.
- (34) *Non-assessed Unit* means any collection unit or portion thereof that is not an assessed unit.
- (35) *Owner* means the person or persons owning an interest in a collection unit, assessed unit or non-assessed unit.
- (36) *Person* means any natural person, or partnership, firm, corporation or other legal entity.
- (37) *Property Appraiser* means the Palm Beach County Property Appraiser.
- (38) *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) *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) *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) *Recycling Container* shall mean a rigid container made of plastic or other suitable substance that is used for the storage of recyclable materials.
- (43) *Residential Recycling Collection Service* shall mean curbside residential recycling collection services and containerized residential recycling collection service.
- (44) *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) *Residential Solid Waste Collection service* shall mean curbside residential solid waste collection service and/or containerized residential solid waste collection service.
- (46) *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) *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) *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) *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) *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) *Solid Waste Authority Disposal Facility* shall mean place or places specifically managed or operated by the solid waste authority of Palm Beach County.

- (52) *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 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) *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) *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) *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) *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) *Tax Collector* means the Palm Beach County Tax Collector.
- (59) *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) *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.
- (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) *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.

Section 5. Collection and Remittance: Except on collection days or the day preceding collection days, garbage containers shall be kept at a point upon the premises of the owner or occupant behind the front elevation of the residence, in the garage, or out of view from the street. Garbage cans are required to be kept in a place easily accessible to the contractor for pickup. On collection days, all garbage cans are to be placed at the edge of the street in order for easy access to the container for pickup. All garbage cans and containers shall be removed on the same day as the container is emptied.

Section 6. Frequency of Collection: All solid waste and recyclable material shall be collected in accordance with the provisions of the contract except as may be changed by the city of Westlake as deemed necessary. Residential solid waste shall be picked up twice per week. Recyclable materials shall be collected once per week.

Section 7. Prohibited Activities:

- (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 city.
- (B) Removal of solid waste and recyclable materials from collection receptacles is not permitted. No unauthorized person shall remove, overhaul, scavenge, pilfer nor interfere with the contents of any garbage container, bundle, or pile set out for disposal, recycling, or removal for any purposes.
- (C) It shall be unlawful for any resident or occupant to deposit any solid waste, trash, bulk trash, vegetative waste and construction and demolition debris upon any adjoining lot or premises, whether vacant or improved, occupied or unoccupied or upon any other lot or premises, street, plaza, public passageway, alley, park, any canal, waterway, storm drain, lake or pool within the city.
- (D) No person shall deposit waste materials within the city 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.
- (E) No person shall burn solid waste in any manner other than in a duly authorized incinerator.
- (F) No person shall place any dead animal or parts thereof in any solid waste container for collection. This section shall not apply to animal parts from food preparation for human consumption.

Section 8. Equipment: Equipment used within the City 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.

Section 9. Ownership of Solid Waste and Recyclable Materials: Ownership of solid waste and recyclable materials collected pursuant to the contract shall be vested in the city of Westlake.

Section 10. Collection During Declared Emergency: If a state of local emergency has been declared, by a person authorized to make such declaration, the city may make modifications in solid waste collection procedures in accordance with the emergency plans of the city, or as authorized by the city manager, including the collection and removal of storm debris. The city may provide the emergency removal and collection of storm debris in private developments if the removal and collection of the debris is in the public interest, which is defined as work necessary to meet the following:

- (a) Eliminate immediate threats to life, public health and safety, including blocking of emergency response vehicle access;
- (b) Eliminate immediate threats of significant damage to improved public or private property;
- (c) Ensure economic recovery of the affected community to the benefit of the community-at-large; or
- (d) Mitigate the risk to life and property by removing substantially damaged structures and associated appurtenances.

Section 11. Codification and Conflicts: The City Council specifically authorizes codification and incorporation of this ordinance into the Code of Ordinance for the City of Westlake. Should any ordinance be in conflict with the provisions contained herein, the same is hereby repealed by adoption of this ordinance.

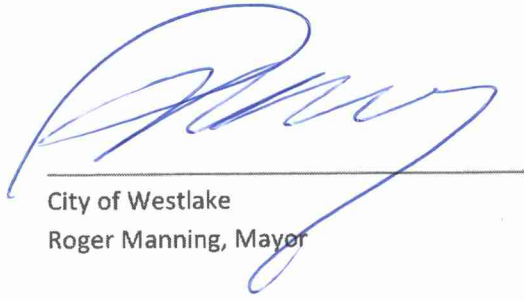
Section 12. Enforcement: It shall be unlawful for any person to fail, neglect, or refuse to comply with and abide by each provision of this ordinance. The performance on each day of any prohibited act or practice or the failure to perform on each day of any required act or practice shall constitute a separate offense and shall be punishable as such.

Section 13: 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.

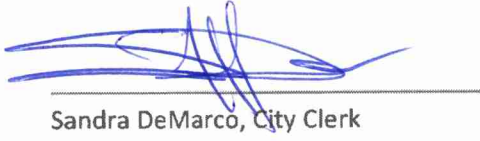
Section 14. Effective Date: This ordinance shall be effective on January 22, 2018.

PASSED this 11th day of December 2017, on first reading.

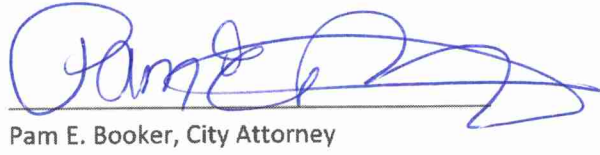
PASSED AND ADOPTED this 8th day of January, 2018, on second reading.



City of Westlake
Roger Manning, Mayor



Sandra DeMarco, City Clerk



Pam E. Booker, City Attorney