

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**
4

5
6 **ORDINANCE No. 2018-041**
7

8 **AN ORDINANCE TO AMEND TITLE 6, HEALTH AND SANITATION, OF THE CITY**
9 **CODE, TO ESTABLISH PROCEDURES FOR THE COLLECTION, DISPOSAL, AND**
10 **RECYCLING OF SOLID WASTE AND FOR OTHER LAWFUL PURPOSES**
11

12 **(Sponsored by Councilpersons Gumbs, Willis and Mayor Pro Tem Baker)**
13

14 **WHEREAS**, the city of South Fulton ("City") is a municipal corporation duly
15 organized and existing under the laws of the State of Georgia;
16

17 **WHEREAS**, the duly elected legislative authority of the city is the Mayor and
18 Council thereof ("City Council");

19 **WHEREAS**, pursuant to O.C.G.A. § 36-35-3 and City Charter Section 3.10(b),
20 the City Council is authorized to adopt ordinances it deems necessary, expedient, or
21 helpful for the health, welfare, sanitation, comfort, and well-being of the inhabitants of
22 the city;

23
24 **WHEREAS**, the city finds that the municipal solid waste services provided for
25 herein will serve to promote safety, sanitation, reliable waste collection service,
26 protection of the environment and City streets and roads;

27
28 **WHEREAS**, this ordinance is authorized pursuant to Ordinance IX, Section II,
29 Paragraph I (a) and III (a) (2) of the Georgia Constitution and other applicable laws; and
30

31 **WHEREAS**, the City finds it to be in the public interest and for the health,
32 welfare, sanitation, comfort, and well-being of the City and its inhabitants to adopt the
33 provisions herein regarding the City's provision of solid waste services.
34

35 **THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as**
36 **follows:**
37

38 **Section 1.** - Title 6, Health and Sanitation, Ordinance 2, solid waste, of the City
39 of South Fulton Code of Ordinances is hereby amended to read as follows:
40

41 **ORDINANCE 2. - SOLID WASTE ORDINANCE**
42

43 **Sec. 6-2001. - Short title.**
44

45 This Ordinance shall be known as the city of South Fulton Solid Waste
46 Ordinance.

47
48 **Sec. 6-2002. - Definitions.**

49 The following words, terms, and phrases when used in this ordinance shall have
50 the following meanings ascribed to them, except where the context clearly indicates a
51 different meaning:

- 52 1) Biomedical Waste shall mean pathological waste, biological waste cultures and
53 stocks of infectious agents and associated biologicals, contaminated animal
54 carcasses (body parts, their bedding, and other wastes from such animals), sharps,
55 chemotherapy waste, discarded medical equipment all parts, not including
56 expendable supplies and materials which have not been decontaminated, as further
57 defined in Georgia Department of Natural Resources, Environmental Protection Rule
58 391-3-4-.15, as amended.
- 59 2) Bulk Waste shall mean discarded items that are larger than three (3) feet in any
60 dimension, and/or heavier than fifty (50) pounds in weight, and therefore too large to
61 be collected in residential municipal solid waste collection carts, including but not
62 limited to items such as mattresses and box springs, indoor/outdoor furniture, swing
63 sets, plastic swimming pools, large toys, bicycles, fish aquariums, and other similar
64 items.
- 65 3) Collect or Collection shall mean to remove residential solid waste, residential
66 recovered materials, or commercial solid waste for transport to a disposal or
67 processing facility, or cause such to be removed.
- 68 4) Collection Services shall mean the collection from a residential unit or from a
69 commercial establishment of municipal solid waste, and residential recovered
70 materials including related transportation, transfer processing and/or disposal.
- 71 5) Commercial Establishment shall mean any hotel, motel, apartment dwelling
72 consisting of more than four (4) units, business, public or semi-public building or
73 premises of any nature or kind whatsoever other than a residential service unit.

- 74 6) Commercial Container shall mean a dumpster or similar waste receptacle supplied
75 by a commercial service provider.
- 76 7) Commercial Recovered Materials shall mean recovered materials generated at a
77 commercial establishment.
- 78 8) Commercial Service Provider shall mean a company authorized by the city to
79 engage in commercial solid waste collection and disposal within the city.
- 80 9) Commercial Solid Waste shall mean all types of solid waste generated by stores,
81 offices, restaurants, warehouses, and other nonmanufacturing activities, excluding
82 residential, industrial, C&D, and hazardous wastes.
- 83 10) Commercial Solid Waste Collection and Disposal shall mean a company authorized
84 under this ordinance to collect, transport, and dispose and/or process commercial
85 solid waste and commercial recovered materials in accordance with this ordinance
86 and other applicable laws related to commercial solid waste, commercial recovered
87 materials, as well as incidental administrative tasks related to the performance of
88 those requirements.
- 89 11) Composting shall mean the controlled biological decomposition of organic matter
90 into stable, odor-free humus.
- 91 12) Construction and Demolition Waste (C&D Waste) shall mean waste building
92 materials and rubble resulting from construction, remodeling, repair, and demolition
93 operations of pavements, houses, commercial buildings and other structures. Such
94 waste includes, but is not limited to, waste containing asbestos, wood, bricks, metal,
95 concrete, wallboard, paper, cardboard, carpeting, inert waste landfill material, and
96 other non-putrescible waste, which have a low potential for groundwater
97 contamination.
- 98 13) C&D Waste Service Provider shall mean a company authorized under this ordinance
99 to engage in C&D waste collection and disposal within the city.
- 100 14) C&D Waste Collection and Disposal shall mean the performance of collecting,

transporting, and disposing of C&D Waste, in accordance with all requirements of this ordinance.

15)City shall mean city of South Fulton, Georgia.

16)Company means any service provider, organization, firm, person, entity, corporation or other business that contracts with customers to provide for the collection and disposal of solid waste materials as defined in this ordinance, and including but not limited to construction/demolition debris, dead animals, garbage, waste, storm debris, yard trimmings, and recyclable material.

17)Customer means any firm, resident, owner, manager, entity, corporation or organization that contracts with a company for the collection and disposal of solid waste materials as defined in this ordinance, and including but not limited to construction/demolition debris, dead animals, garbage, waste, storm debris, yard trimmings, and recyclable material.

18)Disabled Person shall mean an owner of a residential service unit who is disabled to the extent that he or she is incapable of placing his or her residential municipal solid waste, storage cart, residential recovered materials, storage bin, white goods, bulk waste and/or yard trimmings at the residential designated collection location for collection by the residential service provider, such that he or she satisfies this ordinance.

19)Disposal shall mean dumping or depositing of solid waste into or onto a disposal facility.

20)Disposal Facility shall mean a sanitary landfill or other solid waste disposal facility permitted by the Georgia Department of Natural Resources, Environmental Protection Division and/or other applicable regulatory agency with jurisdiction and where the final deposition of solid waste occurs and includes but is not limited to landfilling and solid waste thermal treatment technology facilities.

21)Duplex shall mean a building designed exclusively for residential occupancy by two (2) families.

130 22)Garbage shall mean food waste, including waste accumulations of animal or
131 vegetable matter used or intended for use as food, or that attends the preparation,
132 use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables. Garbage
133 does not include unacceptable waste.

134 23)Gross receipts shall mean the total amount collected by the company from any and
135 all customers for services rendered under authority of this ordinance as a result of
136 charges for service. Gross receipts shall not include the infrastructure maintenance
137 fee identified in this ordinance.

138 24)Hazardous Waste shall mean any solid waste which has been defined as a
139 hazardous waste in regulations promulgated by the United States Environmental
140 Protection Agency or under Georgia Hazardous Waste Management Act, O.C.G.A. §
141 12-8-60 *et seq.*

142 25)Industrial Waste shall mean solid waste generated by manufacturing or industrial
143 processes or operations that is not a hazardous waste. Industrial Waste includes,
144 but is not limited to, waste resulting from the following manufacturing processes. -
145 electric power generations; fertilizer and agriculture chemicals; food-related products
146 and byproducts; inorganic chemicals; iron and steel products; leather and leather
147 products; nonferrous metal and foundry products; organic chemicals, plastics and
148 resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass,
149 clay, and concrete products; textiles; transportation equipment, and water treatment.
150 This term does not include mining waste or oil and gas waste.

151 26)Landfill shall mean an area of land on which or an excavation in which solid waste is
152 placed for permanent disposal and which is not a land application unit, surface
153 impoundment, injection well, or compost pile.

154 27)Mobile Home shall mean a mobile or manufactured home, receiving residential type
155 collection.

156 28)Multi-Family Dwelling shall mean a building designed exclusively for residential
157 occupancy by more than one family, except for duplex, triplex, and quadraplex units.

158 29)Municipal Solid Waste shall mean any solid waste derived from households
159 including garbage, trash, and sanitary waste in septic tanks and means solid waste
160 from, single-family and multifamily residences, hotels and motels, bunkhouses,
161 campgrounds, picnic grounds, and day use recreation areas. The term includes yard
162 trimmings and commercial solid waste, but does not include construction and
163 demolition waste and solid waste from mining, agricultural, or silvicultural operations
164 or industrial processes or operations.

165 30)Municipal Solid Waste Composting shall mean composting of the typical mixed solid
166 waste stream generated by residential, commercial, and/or institutional sources,
167 recycling includes the composting process if the compost material is put to beneficial
168 use.

169 31)Municipal Solid Waste Disposal Facility shall mean any facility or location where the
170 final deposition of any amount of municipal solid waste occurs, whether or not mixed
171 with or including commercial or industrial solid waste, and includes, but is not limited
172 to, municipal solid waste landfills and municipal solid waste thermal treatment
173 technology facilities.

174 32)New Customer shall mean any owner of a newly-constructed residential service unit
175 or newly-constructed commercial establishment.

176 33)Non-Curbside Collection shall mean collection of residential municipal solid waste,
177 residential recovered materials, residential bulk waste, white goods, and/or yard
178 trimmings outside the residential designated collection location.

179 34)Owner shall mean any person, firm, corporation or other entity owning, leasing,
180 renting, occupying, or managing any residential or commercial premises in the city.

181 35)Ownership shall mean ownership, leasing, renting, occupying, or managing any
182 premises by any individual, firm, corporation or other entity in the city.

183 36)Person shall mean the State of Georgia or any other state agency or institution
184 thereof, or municipality, city, political subdivision, public or private corporation, solid

waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association, or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

37)Plan shall mean the 2005 Comprehensive Solid Waste Management Plan, as amended, developed for Fulton County for the area previously defined as the Special Services District for the areas that is now incorporated as the City of South Fulton. The Plan is hereby adopted by the city through this ordinance, and may be amended by the city from time to time.

38)Processing shall mean any method, system or other treatment designed to change the physical form or chemical content of solid waste, and includes separation from solid waste or other handling of recovered materials for recycling.

39)Processing Facility shall mean a facility whose activities include, but are not limited to, the separation and preparation of solid waste for reuse or disposal or the separation and preparation of recovered materials or yard trimmings to produce a marketable commodity.

40)Putrescible Waste shall mean solid waste that is capable of being decomposed by microorganisms, including but are not necessarily limited to kitchen wastes, animal manure, offal, hatchery and poultry processing plant wastes, dead animals, garbage and wastes which are contaminated by such wastes.

41)Quadrplex shall mean a building designed exclusively for residential occupancy by four (4) families.

42)Recovered Materials shall mean those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling

whether or not requiring subsequent separation and processing.

43) Recovered Materials Processing Facility (RMPF) shall mean a facility engaged solely in the storage, processing, and resale or reuse of recovered materials. Such term shall not include a solid waste handling facility; provided, however, any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste.

44) Recycling shall mean any process by which 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, except for mixed municipal solid waste composting.

45) Residential Designated Collection Location shall mean within six (6) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location agreed to by the residential service provider for placement of the residential municipal solid waste storage cart, the residential recovered materials storage bin, and/or any yard trimmings, bulk waste, or white goods are placed, that will provide safe and efficient accessibility to the residential service provider's collection crew and vehicle.

46) Residential Municipal Solid Waste shall mean Municipal solid waste generated at a residential service unit.

47) Residential Municipal Solid Waste Storage Cart shall mean a leak-proof container with attached lid and wheels that allow the automated or semi-automated collection of residential municipal solid waste that meets the specifications established by the city.

48) Residential Recovered Materials shall mean recovered materials generated at residential service units that have been diverted or removed from the residential municipal solid waste stream for sale, use, or recycling, whether or not requiring subsequent separation and processing.

240 49)Residential Recovered Materials Storage Bin shall mean a leak-proof plastic
241 recycling bin with attached lid and wheels that will allow collection of residential
242 recovered materials that meets the specifications established by the city.

243 50)Residential Service Provider shall mean a company authorized under this ordinance
244 to perform the physical process of collecting, transporting, and disposing of the
245 residential municipal solid waste, residential recovered materials, and white goods,
246 bulk waste and/or yard trimmings within the city.

247 51)Residential Service Unit shall mean each unit or units within the following categories
248 that use single-family, residential-type waste storage containers and/or residential
249 municipal solid waste storage carts. - single-family dwellings; duplexes; triplexes;
250 quadraplexes; and mobile homes.

251 52)Residential Solid Waste Collection and Disposal shall mean the performance of all
252 requirements of the solid waste collection and disposal ordinance and other
253 applicable laws related to residential solid waste, residential recovered materials,
254 bulk waste, white goods, and/or yard trimmings, as well as incidental administrative
255 tasks related to the performance of those requirements.

256 53)Residential Service Provider shall mean a company operating within the city
257 pursuant to a contract under this ordinance with the city.

258 54)Single-Family Dwelling shall mean a building designed exclusively for residential
259 occupancy by one (1) family.

260 55)Small Bulk Items shall mean discarded whole items such as small appliances, small
261 furniture, and small electronic equipment under three (3) feet in any dimension and
262 not greater than fifty (50) pounds in weight.

263 56)Solid Waste shall mean any garbage or refuse; sludge from a wastewater treatment
264 plant, water supply treatment plant, or air pollution control facility; and other
265 discarded material including solid, liquid, semisolid, or contained gaseous material
266 resulting from industrial, commercial, mining, and agricultural operations and from

community activities, but does not include unacceptable waste; recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

57) Solid Waste Handling shall mean the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

58) Solid Waste Handling Facility shall mean any facility the primary purpose of which is the storage, Collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste.

59) Source Separated shall mean recovered materials that have been segregated from solid waste by or for the generator thereof, on the premises at which they were generated, for handling different from that of solid waste. This does not require that different types of recyclable commodities be separated from each other.

60) Special Services shall mean non-curb-side collection service, elective services, and city-sponsored events such as special neighborhood clean-up days that produce amounts of residential municipal solid waste, residential recovered materials, yard trimmings, bulk waste, and/or white goods.

61) Transfer Station shall mean a facility, permitted by applicable law, used to transfer solid waste from one collection vehicle to another for transportation to a disposal facility or processing facility.

62) Treated Wood shall mean wood that has been treated or preserved with chromated copper arsenate (CCA), pentachlorophenol, or other chemicals which have been classified as known human carcinogens by the United States Environmental Protection Agency.

63) Triplex shall mean a building designed exclusively for residential occupancy by three

294 (3) families.

295 64)Unacceptable Waste shall mean hazardous waste, biomedical waste, tires, paints,
296 paint solvents, treated wood, un-emptied aerosol cans, compressed gas cylinders,
297 large engine parts, small engines containing oils or fuels, chemicals, large glass
298 panes, large tree debris, stumps, ammunition of any type, dead animals larger than
299 ten (10) pounds, firearms, and any and all waste of which the acceptance and
300 handling by a residential service provider or commercial service provider would
301 cause a violation of any permit condition, legal or regulatory requirement, substantial
302 damage to the service providers equipment or facilities, or present a substantial
303 danger to the health or safety of the public or the service provider's employees.

304 65)White Goods shall mean household appliances such as refrigerators, stoves,
305 washers, dryers, water heaters, and other large enameled appliances, which do not
306 contain polychlorinated biphenyls (PCB) or chlorofluorocarbon refrigerant (CFC) and
307 have been officially certified to that effect, and in the case of refrigerators and
308 freezers, which have had the doors removed.

309 66)Yard Trimmings shall mean leaves, brush, grass clippings, shrub and tree prunings,
310 discarded Christmas trees, nursery and greenhouse vegetative residuals, and
311 vegetative matter resulting from landscaping development and maintenance other
312 than mining, agricultural, and silvicultural operations. The term does not include
313 stumps, roots, shrubs with intact root balls, and specifically excludes all Treated
314 wood.

315 The definitions provided in O.C.G.A. § 12-8-22 and DNR Rule 391-3-4.01, as
316 amended, which are not defined in this section are hereby incorporated into this
317 ordinance. The definitions provided in O.C.G.A. § 12-8-22 shall control to the extent
318 they are in conflict with DNR Rule 391-3-4.01.

319 **Sec. 6-2003. - Exemptions.**

320 a) This ordinance shall not apply to a person, firm, corporation or entity
321 disposing of livestock feeding facility waste from facilities with a total capacity

of up to 1,000 cattle or 5,000 swine. If such individual, corporation, partnership, or cooperative shall provide an approved waste disposal system which is capable of properly disposing of the runoff from a ten-year storm, such individual, corporation, partnership or cooperative shall be further exempt regardless of total per head capacity.

b) Nothing in this ordinance shall limit the right of any person to use poultry or other animal manure for fertilizer.

c) Provisions of this ordinance shall not apply to any person not collecting and disposing of municipal solid waste, commercial solid waste, C&D Waste, scrap tires or industrial waste for a fee, but who is a holder of a valid solid waste handling permit from the Director of the Environmental Protection Division of the Georgia Department of Natural Resources pursuant to Georgia Department of Natural Resources, Environmental Protection Rules 391-3-4-.02 and 391-3-4-.06 for disposal or onsite burial. Such disposal shall be governed by State Environmental Protection Division regulations and by the requirements of the current city development zoning regulations.

d) Composting by owners of residential service units is expressly permitted.

e) Dead animals, biomedical waste, industrial waste and/or hazardous waste shall be disposed of pursuant to state law.

Sec. 6-2004. - Prohibited acts.

a) No person, company, service provider, firm, corporation or other entity shall:

1. Violate the requirements set forth in this ordinance;
2. Collect solid waste in a manner which will be conducive to insect and rodent infestation or the harboring and feeding of wild dogs or other animals; impair the air quality; impair the quality of the ground or surface waters; impair the quality of the environment; or likely create other hazards to the public health, safety, or well-being as defined by Georgia Department of Natural Resources,

Environmental Protection Rule 391-3-4-04; or

3. Collect solid waste until all requirements contained in this ordinance have been complied with.

b) No solid waste may be disposed of by any person in an open dump, nor may any person cause, suffer, allow or permit open dumping on his property as defined by Georgia Department of Natural Resources, Environmental Protection Rule 391-3-4-04.

c) It shall be a violation of this ordinance to place or cause to be placed for collection by a residential service provider or commercial service provider any acid, explosive material, inflammable liquids or dangerous or corrosive material of any kind.

d) No person other than the occupant or owner thereof shall interfere with any container placed for the purpose of storing solid waste pending collection, or remove or take any of the contents thereof, or remove any container from the location where the container has been placed by the owner thereof.

e) No person shall discard or deposit any solid waste on the land of another without first obtaining permission of the owner.

f) No person shall discard or deposit, or permit the discarding or depositing, of any solid waste on any public right-of-way, except in receptacles provided for the purpose of holding such solid waste.

Sec. 6-2005. - Penalties.

Any person violating any provision of this ordinance may, upon conviction be punished by a fine not to exceed \$1,000.00 for each offense and/or incarceration or community service not to exceed 30 days. Each day a violation of this ordinance continues shall be considered a separate and distinct offense.

Sec. 6-2006. - Violations and Enforcement.

a) This ordinance shall be enforced by city code enforcement officials, the city manager or his designee. Enforcement authority shall include the power to determine compliance with this ordinance, to investigate complaints of violations of this ordinance, and to pursue violations in any court of competent jurisdiction.

b) The provisions of this ordinance regarding the disposal or onsite burial of solid waste may be enforced by the Georgia Department of Natural Resources, Environmental Protection Division.

c) Nothing in this ordinance shall affect the ability of the city to pursue any remedies against any person and/or entity under local, state, or federal law.

d) Nothing in this ordinance shall affect the ability of the city to pursue the remedies available to it by virtue of its police powers.

Sec. 6-2007. - Disposal facility fee.

A surcharge fee of \$1.00 per ton of residential municipal solid waste or commercial solid waste received, collected, handled or disposed of at any private municipal solid waste disposal facility located within the city is hereby imposed upon the operator(s) of said facilities in accordance with O.C.G.A. § 12-8-39(d) and shall be paid to the city on or before December 31st of each year.

Sec. 6-2008. - Grant of nonexclusive contract.

(a) The city shall hereby grant to companies a nonexclusive contract, pursuant to the terms set forth herein, to use the public streets, alleys, roads and thoroughfares within the city for the purpose of operating and engaging in the business of collecting and disposing of waste; including, but not limited to, contracting with customers and providing service pursuant to contract therefor, placing and servicing containers, operating trucks, vehicles and trailers, and such other operations and activity as are customary and/or incidental to such business and service.

(b) It is illegal for any company to operate outside the terms of this contract and ordinance. Should companies engage in operations that violate this contract, or

operate without acceptance of this contract as set forth in this ordinance, said company is guilty of an offense.

Sec. 6-2009. - Acceptance by company.

a) Filing of contract. By November 1, 2018, or within 30 days of establishing a business within the corporate city limits, all companies operating a residential or commercial refuse waste service shall complete and file with the city procurement manager its acceptance of the terms and provisions of this ordinance and invitation for contract. No company shall provide waste collection services within the city thereafter, without a filed and approved contract as required herein. Contracts meeting all requirements under this section shall be approved by the City Manager. The request for contract approval shall be in writing on the company's letterhead and provide as follows:

City of South Fulton
Attention. - City Procurement Manager
5440 Fulton Industrial Blvd, S.W.
Atlanta, GA 30336

_____ (the "Company"), acting by and through an officer who is acting within its official capacity and authority, hereby accepts this contract with the City of South Fulton, Georgia, to operate a refuse and solid waste collection and disposal system within the City as set forth under Title 6, Chapter 2, Solid Waste, of the City of South Fulton, Georgia, Code of Ordinances (referred to herein as the "Solid Waste Ordinance"). For consideration herein, and as set for under the Solid Waste Ordinance, company agrees to be bound and governed by each term, provision and condition of the Solid Waste Ordinance, to accept and to give the benefits provided by the Solid Waste Ordinance, and to perform each service and duty set forth and provided for in the Solid Waste Ordinance in a businesslike and reasonable manner and in compliance with the Solid Waste Ordinance.

So agreed, this _____ day of _____, _____.

431 [signature]
432 [printed name]
433 [title]
434 [business address]
435 [contact number]
436 [notary]

437

438 b) Supporting Documentation. The following information shall be attached to the
439 submitted contract:

- 440 1. The company's customer service telephone number;
441 2. A notarized statement certifying that all company drivers have a current
442 commercial driver's license (CDL) and all company trucks are registered with
443 the Georgia Department of Transportation;
444 3. A current solid waste handling permit from the Director of the Environmental
445 Protection Division of the Georgia Department of Natural Resources or any
446 successor agency authorized to issue permits pursuant to O.C.G.A. § 12-8-
447 24; and
448 4. An insurance certificate evidencing the company's maintenance of insurance
449 as required under this ordinance.

450

451 c) Term. The term of the contract is for a period of one year beginning on the date
452 of approval of the contract by the City and terminating on the first anniversary of
453 said date. The company shall begin performance under this contract immediately
454 after approval of the contract.

455 **Sec. 6-2009. - Contract and rental fees.**

456 The streets, rights-of-way, and public easements to be used by the company in the
457 operation of its business within the boundaries of the city, as such boundaries now exist
458 and exist from time to time during the term of this contract, are valuable public
459 properties acquired and maintained by the city at great expense to its taxpayers, and
460 the city will incur costs to regulate and provide garbage services under this ordinance.

461 In consideration of such benefits, costs and expenses, the company shall through the
462 term of its contract collect an infrastructure maintenance fee equal to five percent of the
463 company's gross receipts to customers within the city, exclusive of sales tax.

464 (1) *Fees paid.* The infrastructure maintenance fee is payable quarterly to the city
465 and delivered to the city in function together with a statement indicating the
466 derivation and calculation of such payment. Each such quarterly payment is due
467 on the 15th day of the second month following the end of the quarterly period
468 for which said payment is due. The quarterly payments are due on February 15,
469 May 15, August 15, and November 15 of each year during the term hereof, with
470 the February 15 payment being based upon the company's gross receipts
471 during the calendar quarter ending the prior December 31 and being payment
472 for the rights and privileges granted hereunder for said calendar quarter, the
473 May 15 payment being based upon the company's gross receipts during the
474 calendar quarter ending the prior March 31 and being payment for the rights
475 and privileges granted hereunder for said calendar quarter, the August 15
476 payment being based upon the company's gross receipts during the calendar
477 quarter ending the prior June 30 and being payment for the rights and privileges
478 granted hereunder for said calendar quarter, and the November 15 payment
479 being based upon the company's gross receipts during the calendar quarter
480 ending the prior September 30 and being payment for the rights and privileges
481 granted hereunder for said calendar quarter. All bills generated by companies
482 after November 1, 2018, shall include the infrastructure maintenance fee. The
483 city shall provide material relating to the education and marketing efforts of the
484 infrastructure maintenance fee as well as provide education and training to
485 company employees to ensure a consistent message is conveyed to
486 constituents of the city. For purposes of verifying the amount of such fee, the
487 books of the company shall at all reasonable times be subject to inspection by
488 the duly authorized representatives of the city.

489 (2) *Reporting.* Any company providing service pursuant to this ordinance or a
490 resulting contract shall from time to time provide the city with the necessary

statistics regarding waste collected and disposed which shall allow the city to comply with local, state and federal reporting requirements.

(4) *Dedicated revenue.* The infrastructure maintenance fee collected by the city under this ordinance is substantially dedicated to the following:

a. The City's provision and contracting of solid waste services herein for the health and sanitation of the city and the maintenance and servicing of the city's streets, corridors, alleys, thoroughfares, and transportation routes;

b. City administrative services and costs related to contract compliance between customers and companies where service is received as provided in this ordinance; and

c. Collection of litter and trash within the city.

Sec. 6-20010. Responsibility for customer education.

It is the company's obligation and responsibility to educate all customers on industry trends and best practices relating to solid waste collection, removal, and disposal. Such education programs must consist of the following elements: recycling; holiday schedules; new customer information; and any service-related items. All companies have the obligation to inform customers of any non-collected trash or items placed for collection by the customer but not covered under the agreement between the customer and the company. Further, it is the company's obligation and responsibility to educate customers on days of collection for each specific service provided.

Sec. 6-20011. - Vehicles to be covered and identified.

1) All vehicles used by the company for the collection and transportation of refuse is covered at all times while loaded and in transit to prevent the blowing or scattering of refuse onto the public streets or properties adjacent thereto, and such vehicles is clearly marked with the company's name and telephone number in letters not less than 1½ inches in height.

2) The company must provide a comprehensive and proactive driver safety education program which encourages safety on city streets. Such program must be demonstrated and conveyed to the city. The company must comply with all

other regulatory agencies, both local, state, or otherwise, with respect to commercial vehicle operation within the city. Service calls received by the city as a result of noncompany performance will result in the consideration of revoking a nonexclusive contract or the city's choice to not renew an existing agreement.

3) The company must manage collection services delivered within the city to minimize the number of vehicles on city roads. Coordination between haulers and service providers is strongly encouraged to manage service vehicles on residential streets and neighborhoods. Companies may provide a discounted rate for neighborhood or area collection programs in order to promote the reduction of collection vehicles on city streets.

4) Should the company utilize "scout" trucks to facilitate collection in residential areas where it is not feasible to use standard collection vehicles, such vehicles must be covered at all times while loaded and in transit should they exceed 30 miles per hour or be driven more than 200 yards on a public street.

Sec. 6-20012. - Regulation of containers.

The company may rent, lease, provide or define specifications for containers to any customer within the corporate limits of the city for refuse storage and collection purposes subject to the following requirements:

(1) All containers are in good or better condition and constructed and maintained according to industry practice.

(2) All containers are equipped with stable covers to prevent blowing or scattering of refuse while being transported for disposal of their contents.

(3) All containers, save and except those being used for the purpose of collecting and storing rubble, building and scrap construction materials, are equipped with covers suitable to prevent blowing or scattering refuse and access to the container by animals while the container is at the site designated by customer.

(4) All containers are periodically cleaned, maintained, serviced and kept in a reasonably good state of repair to prevent the unreasonable accumulation of

549 refuse residues, to avoid excessive odor and harborage for rodents and flies
550 resulting from excessive residues remaining after collection of containers.

551 (5) All containers are clearly marked with the company's name and telephone
552 number in letters not less than 1½ inches in height.

553 (6) All containers shall not be on public rights-of-way and are located so as to
554 not interfere, block, obstruct or impede the normal use of any sidewalk, street,
555 alley driveway or fire lane, or to block, obstruct or impede sight distance at
556 street, road or alley intersections.

557 (7) All containers, bins, or other collection instruments must be kept free from
558 graffiti, rust, broken and nonoperational parts and pieces, and litter in and
559 around the area.

560 (8) It is the responsibility of each company to educate their customers on the
561 regulations of containers and maintain industry standards, policies, and
562 procedures, which promote an aesthetically pleasing environment in and
563 around all refuse and waste containers and receptacles.

564 **Sec. 6-20013. - Residential Municipal Solid Waste and Recovered Materials,**
565 **generally.**

566 a) Each owner of an occupied residential service unit shall:

567 1. Dispose of Waste with Company. Each owner of an occupied residential
568 service unit shall dispose of residential municipal waste, residential
569 recovered materials, white goods, bulk waste and/or yard trimmings,
570 weekly, with a company authorized under this ordinance. The owner of the
571 residential service unit shall contract with the company directly for the
572 provision of collection services.

573 2. Bulk Waste and White Goods Collection. It shall be the responsibility of
574 the owner of a residential service unit to ensure that prior to collection
575 and disposal, white goods are empty of all foods and liquids, and that
576 any CFCs and PCBs have been evacuated and captured by a certified

577 technician in accordance with law, and the doors have been removed
578 from freezers and refrigerators.

- 579 3. Yard Trimmings Collection. Yard trimmings shall be placed in reusable
580 non-disposable rigid containers or compostable brown paper bags and
581 deposited at a curbside location adjacent to the originating property, but
582 in no case shall they be placed in such a position as to obstruct the
583 sidewalks, the gutter, or the free movement of traffic. All branches,
584 limbs, and shrubbery shall be cut in lengths of six feet or less, and no
585 single piece shall exceed four inches in diameter and weigh no more
586 than 100 pounds.

587 i. Yard trimmings may be composted by the owner of a residential
588 service unit on the owner's property in accordance with the laws
589 and regulations of the State of Georgia.

590 ii. This ordinance shall not prohibit an owner of a residential service
591 unit from disposing of yard trimmings through a third party that
592 generated the yard trimmings as a result of its activities at the
593 owner's residential service unit.

- 594 4. Collection Hours. Each owner of a residential service unit shall be
595 required to place the residential municipal solid waste storage cart, bulk
596 waste, white goods, and storage bin at the residential designated
597 collection location, for collection by the authorized residential service
598 provider, no earlier than 3:30 p.m. on the day prior to the day scheduled
599 for collection. Each owner of a residential service unit shall remove the
600 residential municipal solid waste storage cart and the residential
601 recovered materials storage bin, if applicable, no later than the day
602 following the collection day.

603 i. At the point in time when the owner of the residential service unit
604 places residential municipal solid waste or residential recovered

605 materials at the residential designated collection location,
606 ownership of the residential municipal solid waste and residential
607 recovered materials transfers from the owner of the residential
608 service unit to the company, except that ownership of
609 unacceptable waste shall not transfer to the company.

610 5. Excessive Accumulation of residential municipal solid waste. Each
611 owner of a residential service unit shall prevent the continued, excessive
612 and unsightly accumulation of residential municipal solid waste,
613 residential recovered materials, white goods, bulk items and/or yard
614 trimmings upon owner's property or the public thoroughfares bounding
615 upon owner's property.

616 b) Disabled Persons

617 1. Any disabled person shall be provided non-curbside collection of
618 residential municipal solid waste, residential recovered materials,
619 residential bulky waste, white goods, and/or yard trimmings provided that
620 the disabled person performs the following. -

621 i. Obtains a physician's certificate certifying such disability; and

622 ii. Provides the physician's certificate to the company serving such
623 person's residential service unit with a copy to the city.

624 2. Non-curbside collection is available only if all adult persons residing in the
625 residential service unit are also disabled and also obtain physician's
626 certificates certifying such disability.

627 3. This section also applies to temporary disability not to exceed ninety (90)
628 days.

629 4. Companies may make reasonable rules for the non-curbside collection of
630 residential municipal solid waste, residential recovered materials,
631 residential bulky waste, white goods, and/or yard trimmings from disabled

persons who qualify under this ordinance for such service.

- c) City Initiated Collection. The city reserves the right to secure residential waste collection services for any occupant or owner who fails, upon request, to provide proof of having secured weekly waste collection services as required under this ordinance. Such city initiated service may be terminated upon the owner or occupant providing the city with proof of obtained collection services. Such service shall be in addition to the city's authority to issue citations or fines for failure to comply with this ordinance. The city may recover the costs for any such city initiated collection services as allowed by law.

Sec. 6-20014. - Residential Service Providers.

- a) All residential municipal solid waste, residential recovered materials, bulk waste, white goods, and/or yard trimmings collected through residential solid waste collection and disposal, shall be collected and disposed or processed by authorized residential service providers. It shall be a violation of this ordinance for any waste service provider, except a company authorized under this ordinance, to provide residential solid waste collection and disposal services to any residential service unit in the city.

1. At a minimum, the company shall provide for the weekly collection of residential municipal solid waste, residential recovered materials, bulk waste, white goods, and/or yard trimmings, oil disposal services and residential recovered materials (i.e. recyclable materials). Residential recovered materials to be collected shall include the residential recovered materials listed in Appendix I to this Ordinance.

2. Collection Hours. Except as otherwise allowed by the city, the company shall perform all collection of solid waste between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday, or Monday through Saturday during a Holiday week. The company(s) shall not be required to perform collection services or maintain office hours on state Holidays.

- i. At the point in time when the owner of the residential service

unit places residential municipal solid waste or residential recovered materials at the residential designated collection location, ownership of the residential municipal solid waste and residential recovered materials transfers from the owner of the residential service unit to the company, except that ownership of unacceptable waste shall not transfer to the company.

3. Reporting Requirements. The company shall provide the city with a monthly tonnage report that is to be delivered to the city within ten days of the end of the month for which the data was collected. The company shall maintain for a period of five (5) years, copies of weight tickets which are to be made available for city inspection. The company shall also be responsible for maintaining and submitting reports on an ad hoc, monthly, and annual basis.

- i. The company's monthly report to the city shall include the following:
 - a. A cover letter that abstracts the report and highlights any major accomplishments, problems, trends and other pertinent information for the associated month;
 - b. Complaints/resolution summary for the associated month;
 - c. Daily route sheet with attached disposal site weight ticket for the associated month;
 - d. Recycling station participation for the associated month;
 - e. Tonnage figures showing total waste tonnage collected by service type;
 - f. Tonnage figures showing residential recovered materials collected, and proof of recycling in the form of manifest, bills of sale, or records showing adequate proof of movement of the material to a recognized recycling facility.
 - g. If requested by the city, proof of disposal of residential municipal solid waste at state-approved disposal facilities and the name of each such facility. The company(s) shall maintain at its place of

business books and records showing the names and addresses of all owners of residential service units to whom residential municipal solid waste and residential recovered materials services have been provided. The company(s) shall submit, upon reasonable request of the city, to a financial audit by a certified public accountant or auditor employed by the city. Financial information of the company(s) shall be treated as confidential by the city. The city may request other information from the company(s), if necessary, to comply with State solid waste reporting requirements.

- ii. An annual report should be submitted to the city no later than thirty (30) days following every twelve (12) month period of the contract. Annual reports shall include the following information for each collection service (refuse, recycling, and yard trimmings).
 - a. Complaints/Resolution summary.
 - b. Daily route sheet with attached disposal site weight ticket.
 - c. Recycling participation.
 - d. Route operational data form.
 - e. Vehicle identification number.
 - f. Daily staffing summary (including substitutions).
 - g. Landfill tickets.
 - h. Disposed tonnage of refuse and recyclables, itemized on a per-day basis.
 - i. Updated list of addresses receiving service.

Sec. 6-20015. - Commercial Solid Waste and Commercial Recovered Materials, generally.

- a) All commercial establishments, businesses, and industries having commercial solid waste, commercial recovered materials, scrap tires and/or yard trimmings must obtain commercial solid waste collection and disposal services from an authorized company contracting with the city under this ordinance.

b) Yard trimmings. All yard trimmings shall be segregated from commercial solid waste and commercial recovered materials and shall be placed in sturdy paper bags suitable for containing yard trimmings, excluding plastic bags, or shall be bundled for collection and disposal or processing. This ordinance shall not prohibit an owner of a commercial establishment from disposing of yard trimmings through a third party that generated the yard trimmings as a result of the third party's activities at the commercial establishment.

c) No owner of a commercial establishment, person, firm, corporation or other entity having solid waste shall violate the requirements applicable to commercial service providers set forth in this ordinance. Violations may be punished pursuant to Sec. 6-2005.

d) This Section shall not displace a contract currently in existence and effect as of the passage of this ordinance between a commercial services provider and a commercial establishment within the city pursuant to O.C.G.A. § 36-80-22 or any other applicable Georgia law.

Sec. 6-20016. - Commercial Service Providers.

a) A commercial service provider company shall maintain at its place of business books and records showing the owners, business name and address of each commercial establishment that the commercial service provider has contracted with, during the period of its contract with the city, for commercial solid waste collection and disposal services, including the street address for each property served. The commercial service provider shall, upon request by the city, make such books and records available for inspection and/or submit to a financial audit by a certified public accountant or auditor employed by the city.

b) Reporting Requirements. Within thirty (30) days following the close of each calendar quarter ending March 31, June 30, September 30, and December 31 of each year of operation, each commercial service provider authorized to

provide solid waste collection and disposal service in the city shall submit to the city reports of commercial solid waste collection and disposal services showing the following:

1. Gross collection revenues and average number of customers during quarter by service type.
2. Tonnage figures showing total waste tonnage collected by service type.
3. Tonnage figures showing total Recovered Materials collected by type, and proof of recycling in the form of manifests, bills of sale, or other records showing adequate proof of delivery of the material to a recognized recycling facility.
4. Proof of disposal of non-recovered materials at state approved disposal facilities and name of each such facility
5. Such other information as required by the city in the city's discretion.

Sec. 6-20017. - Construction and Demolition (C&D) Waste, generally.

- a) C&D Waste shall be segregated from residential municipal solid waste and commercial solid waste.
- b) All residential service units and commercial establishments, businesses, and industries having C&D Waste shall obtain C&D Waste Collection and Disposal services from a company authorized by contract under this ordinance to provide such service in the city.
- c) Neither the city Public Works Department nor the Department of Health and Wellness shall be responsible for collecting, hauling, or disposing of C&D Waste originating from private property preliminary to, during, or prior to the construction of new, remodeled, or renovated structures. The owner, lessee, tenant or occupant of the property shall cause for the removal of such items.

- d) The city, through the city building inspector or his or her designee, shall not issue a certificate of occupancy for multifamily, commercial, or industrial developments until all C&D Waste is removed by the owner or contractor.

Sec. 6-20018. - C&D Waste Service Providers.

- a) A C&D waste service provider shall maintain at its place of business, during the term of its contract with the city, books and records showing the owner, business name, and address of each commercial establishment and/or the owner and address of each residential service unit that the C&D Waste service provider has privately contracted with for C&D waste collection and disposal services, including the street address for each property served. The commercial service provider shall, upon request by the city, make such books and records available to the city for inspection and/or submit to a financial audit by a certified public accountant or auditor employed by the city.

- b) Reporting Requirements. Within thirty (30) days following the close of each calendar quarter ending March 31, June 30, September 30, and December 31 of each year of operation, each C&D Waste Service Provider authorized to provide C&D Waste Collection and Disposal service in the city shall submit to the city reports, showing the following. -

1. Gross collection revenues and average number of customers during quarter by service type.
2. Tonnage figures showing total waste tonnage collected by service type.
3. Such other information as required by the city in the city's discretion.

Sec. 6-20019. - Minimum requirements for all service providers operating in city.

- a) All authorized companies under this ordinance shall at all times maintain a customer service telephone number while conducting business within the city, through which the company during normal business shall, at a minimum:

- 807 a. Coordinate and provide information concerning deposits,
808 payments and accounts to customers and prospective
809 customers;
- 810 b. Respond to customer and prospective customer questions and
811 issues about billings, accounts, deposits and services;
- 812 c. Coordinate with the city with respect to private sector and public
813 works projects and issues related to or affecting the company's
814 operation; and
- 815 d. Provide immediate response, upon request, to police, fire and
816 other emergency situations in which the public health and safety
817 requires action with respect to or assistance regarding
818 company's property.

819 The telephone number must be publicly listed in a phone book and available
820 through directory assistance.

821 b) Each company providing trash receptacles, whether commercial or residential,
822 must mark each receptacle with the company's name and telephone number in
823 letters not less than one and one-half inches in height. Each company must
824 provide a mechanism to accept, investigate, and respond to customer
825 complaints. Companies are strongly encouraged to use multimedia devices
826 including interactive websites, e-mail, fax, and automated telephone systems.
827 Service calls received by the city as a result of noncompany performance will
828 result in the consideration of revocation of a nonexclusive contract or the city's
829 choice to not renew an existing agreement.

830 c) Minimum requirements for invoices. Any invoice, bill, statement, or other device
831 intended to request remittance by the customer to the company of funds for
832 payment of service shall include, at a minimum, the company's telephone
833 number and payment methods available to customers.

834 d) Provide a notarized statement certifying that all drivers have a current
835 commercial driver's license (CDL) and all trucks are registered with the Georgia
836 Department of Transportation.

837 e) Apply all usual and customary risk management practices accepted by the waste
838 and garbage industry.

839 f) Have a current solid waste handling permit from the Director of the
840 Environmental Protection Division of the Georgia Department of Natural
841 Resources or any successor agency authorized to issue permits pursuant to
842 O.C.G.A. § 12-8-24.

843 g) Insurance. Each company shall maintain, at its own expense, throughout the
844 term of its contract with the city, insurance as set forth below with an insurance
845 company authorized and licensed to do business in the state and acceptable to
846 the city, insuring against claims for liability and damages for the benefit of the
847 city. The insurance shall include the city as an additional insured, and shall
848 consist, at a minimum, of the following:

849 i. Environmental Liability coverage in the amount of \$1,000,000 limit
850 of liability per occurrence.

851 ii. Commercial general liability insurance:

852 1. \$1,000,000 limit of liability per occurrence for bodily injury
853 and property damage, which shall include damage liability to
854 persons or damages to property, in any way arising out of or
855 through the acts or omissions of the company, its servants,
856 agents or employees or to which the company's negligence
857 shall in any way contribute.

858 2. \$1,000,000 limit of liability per occurrence for personal injury.

859 3. Commercial general liability written on an occurrence form,
860 which includes contractual liability, broad form property
861 damage, incidental medical malpractice, severability of
862 interest, and extended bodily injury.

863 4. Miscellaneous liability. Arising out of any claim or invasion of
864 the right of privacy, for defamation of any person, or the

865 violation or infringement of any copyright, trademark, trade
866 name, service mark or patent, or of any other right of any
867 person;

868 iii. Auto liability insurance:

869 1. \$1,000,000 limit of liability per occurrence for bodily injury
870 and property damage.

871 2. Comprehensive form covering all owned, non-owned,
872 leased, hired, and borrowed vehicles used in providing
873 Collection Services.

874 3. Coverage for cleanup of pollutants due to an accident,
875 including MCS-90 endorsement for pollution liability
876 coverage.

877 iv. Employer's liability of insurance. If the company is required by state
878 statutes, the company shall maintain throughout the term of the
879 contract resulting from this ordinance the requisite statutory
880 workers' compensation insurance, and a minimum of \$500,000.00
881 employer's liability insurance. The company is required to show
882 compliance to this section by submitting documentation of such
883 coverage from an approved carrier licensed in the state, or
884 documentation explaining the exemption from employer's liability
885 insurance should they not meet the state requirements to carry
886 such coverage.

887 (h) Endorsements. All insurance policies maintained pursuant to this ordinance shall
888 contain the following conditions by endorsement:

889 (1) Additional insured. The city is an additional insured and the terms
890 "owner" and "city" shall include all authorities, boards, bureaus,
891 commissions, divisions, departments and offices of the city and the
892 individual members, officers, officials, representatives, employees and

893 agents thereof in their official capacities and/or while acting on behalf
894 of the city.

895 (2) Other insurance clause. The policy clause "other insurance" shall not
896 apply to the city when the city is an insured on the policy.

897 (3) No recourse. Companies issuing the insurance policies shall not have
898 recourse against the city for payment of any premium or assessment.

899 (i) Increase requirements. The city may amend this ordinance to make reasonable
900 adjustments to the insurance coverage and their limits when deemed necessary
901 and prudent based upon changes in statutory law, court decisions, or the claims
902 history of the industry.

903 (j) Collaboration. Companies may subcontract with larger companies to meet
904 insurance requirements under this ordinance.

905 **Sec. 6-20020. - Indemnification and hold harmless.**

906 The company agrees to indemnify, defend and save harmless the city, its agents,
907 officers and employees, against and from any and all claims by or on behalf of any
908 person, firm, corporation or other entity arising from any negligent act or omission or
909 willful misconduct of the company, or any of its agents, contractors, servants,
910 employees or contractors, and from and against all costs, counsel fees, expenses and
911 liabilities incurred in or about any such claim or proceeding brought thereon. Promptly
912 after receipt from any third party by the city of a written notice of any demand, claim or
913 circumstance that, immediately or with the lapse of time, would give rise to a claim or
914 the commencement (or threatened commencement) of any action, proceeding or
915 investigation (an "asserted claim") that may result in losses for which indemnification
916 may be sought hereunder, the city shall give written notice thereof (the "claims notice")
917 to the company provided, however, that a failure to give such notice shall not prejudice
918 the city's right to indemnification hereunder except to the extent that the company is
919 actually and materially prejudiced thereby. The claims notice shall describe the asserted
920 claim in reasonable detail, and shall indicate the amount (estimated, if necessary) of the
921 losses that have been or may be suffered by the city when such information is available.

The company may elect to compromise or defend, at its own expense and by its own counsel, any asserted claim. If the company elects to compromise or defend such asserted claim, it shall, within 20 business days following its receipt of the claims notice (or sooner, if the nature of the asserted claim so required), notify the city of its intent to do so, and the city shall cooperate, at the expense of the company, in the compromise of, or defense against, such asserted claim. If the company elects not to compromise or defend the asserted claim, fails to notify the city of its election as herein provided or contests its obligation to provide indemnification under this agreement, the city may pay, compromise or defend such asserted claim with all reasonable costs and expenses borne by the company. Notwithstanding the foregoing, neither the company nor the city shall settle or compromise any claim without the consent of the other party; provided, however, that such consent to settlement or compromise shall not be unreasonably withheld. In any event, the city and the company may participate, at their own expense, in the defense of such asserted claim. If the company chooses to defend any asserted claim, the city shall make available to the company any books, records or other documents within its control that are necessary or appropriate for such defense.

Sec. 6-20021. - Collection time and company variances.

A company may request a variance from collection times under this ordinance for properties in which normal collection time procedures would cause a clear and present safety hazard. In addition, a residential owner who is able to show a proof of the weekly drop-off of residential waste to a garbage disposal facility outside the City limits may request a variance from the servicer requirements of this ordinance. All requests for such variances must be filed in writing with the city manager and include documentation of the hazard created by the collection operation period. A determination regarding the application shall be made by the city manager or his designee within (30) days from the date of the city's receipt of the request. The city may charge a fee for each variance location requested, based upon costs incurred by the city.

- (a) Appeals. Any person aggrieved by a decision of the city manager or his designee under this section may submit an appeal to the city council within 30

951 days of the date of the communication of the aggrieved decision. Any person
952 aggrieved by an action of the city council may appeal to the superior court as
953 allowed by law.

954 (b) Complaints. Should a collection operation variance be granted and the city
955 receives complaints about the collection operation, the city shall verify and
956 substantiate the factual basis for the complaint. Should the complaints be
957 substantiated, the collection operation variance will be revoked, and the
958 company is required to operate within the collection times set forth in
959 subsection.

Sec. 6-20022. - Forfeiture and terminating of contract.

(a) *Material breach.* In addition to all other rights and powers retained by the city under this ordinance or otherwise, the city reserves the right to declare any resulting contract from this ordinance forfeited and to terminate the contract and all rights and privileges of the company hereunder in the event of a material breach of the terms and conditions hereof. A material breach by the company shall include, but not be limited to, the following:

- (1) Fees. Failure to pay the fees required under this ordinance;
- (2) Telephone listings. Failure to keep and maintain a telephone listing and office or answering service that is available by phone;
- (3) Provision of services. Failure to materially provide the services provided for in this ordinance within six months of execution of this contract;
- (4) Misrepresentation. Material misrepresentation of fact in the application for or negotiation of any contract resulting from this ordinance; or
- (5) Conviction. Conviction of any director, officer, employee, or agent of the company of the offense of bribery or fraud connected with or resulting from the award of a contract from this ordinance; and
- (7) Operation information. Material misrepresentation of fact knowingly made to the city with respect to or regarding the company's operations, management, revenues, services or reports required pursuant to this ordinance.

(b) *Economic hardship.* The company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

(c) *Forfeiture and proceedings.* Any unwarranted and intentional neglect, failure or refusal of the company to comply with any material provision of this ordinance or resulting contract within 30 days after written notice from city setting forth the specific provision and noncompliance, said notice to be mailed to company at its principal place of business by certified mail, return receipt requested, is deemed a breach of this ordinance, and the city council, upon notice to the company and

988 hearing, may, for good cause, declare a contract forfeited and exclude company
989 from further use of the streets of the city under this ordinance, and the company
990 shall thereupon surrender all rights in and under this ordinance and contract.

991 (1) Proceedings. In order for the city to declare a forfeiture pursuant to this
992 subsection, the city shall make a written demand that the company comply with
993 any such provision, rule, order, or determination under or pursuant to this
994 ordinance. If such violation by the company continues for a period of 30 days
995 following such written demand without written proof that the corrective action
996 has been taken or is being actively and expeditiously pursued, the council may
997 take under consideration the issue of termination of the resulting contract from
998 this ordinance. The city shall cause to be served upon the company, at least 20
999 days prior to the date of such a council meeting, a written notice of intent to
1000 request such termination and the time and place of the meeting. Notice is given
1001 of the meeting and issue which the council is to consider.

1002 (2) Hearing. The council shall hear and consider the issue, hear any person
1003 interested therein, and shall determine whether or not any violation by the
1004 company has occurred.

1005 (3) Forfeiture. If the council shall determine that the violation by the company was
1006 the fault of the company and within its control, the council may declare the
1007 contract forfeited and terminated, or the council may grant to the company a
1008 period of time for compliance.

1009 (d) The city, at its discretion, may terminate all contracts under this ordinance with sixty
1010 (60) days written notice for purposes of implementing an alternative and/or revised
1011 system of sanitation services.

1012 **Sec. 6-20023. - Transfer, sale or conveyance by company.**

1013 The company shall not transfer, assign, sell or convey any rights granted under any
1014 resulting contract from this ordinance without the prior approval of the council expressed
1015 by ordinance; provided that this ordinance shall not apply to vehicles, replacements,
1016 maintenance, upgrades or modifications of equipment, machinery, containers and

buildings by company for the purpose of maintaining and continuing its operation within the city; and provided further that company may, in its sole discretion and upon written notice to the city, transfer, assign, sell or convey this ordinance to a wholly owned subsidiary of the company or to an affiliated entity that is under common control with company (e.g., has a common parent entity).

Sec. 6-20024. - Foreclosure.

Upon the foreclosure or other judicial sale of all or a substantial part of the assets and property of the company used for and dedicated to providing service pursuant to this ordinance, the company shall notify the city of such fact, and such notification shall be treated as a notification that a change in control of the company has taken place and the provisions of this ordinance governing the consent of the council to such change in control of the company shall apply. Upon the foreclosure or judicial sale, or the leasing of all or a substantial part of the property and assets of the company dedicated to and used for the purposes of providing service pursuant to this ordinance, without the prior approval of the council, the council may, upon hearing and notice, terminate any contract resulting from this ordinance.

Sec. 6-20025. - Receivership and bankruptcy.

The council shall have the right to cancel any contract resulting from this ordinance 120 days after the appointment of a receiver or trustee to take over and conduct the business of the company, whether in receivership, reorganization, bankruptcy, other action or preceding, whether voluntary or involuntary, unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, unless. -

(1) *Trustee compliance.* Within 120 days after his election or appointment, such receiver trustee shall have fully complied with all the provisions of this ordinance and remedied all defaults thereunder; or

(2) *Trustee agreement.* Such receiver or trustee, within 120 days, shall have executed an agreement, duly approved by the court having jurisdiction, whereby the receiver or trustee assumes and agrees to be bound by each and every provision of this ordinance granted to the company.

1046 **Sec. 6-20026. - Retention of city police powers.**

1047 The city retains and reserves all of its police powers and the rights, privileges, and
1048 immunities that it now has under the law to regulate, patrol and police the streets and
1049 public ways within the city, and the granting of any contract as a result of this ordinance
1050 shall in no way interfere with the improvements to, or maintenance of, any street, alley
1051 or public way, and the rights of the city to use said streets, alleys and public ways.

1052 **Sec. 6-20027. - Amendments of city ordinances and regulations.**

1053 The city reserves the right and power, pursuant to its police power, after due notice
1054 to the company, to modify, amend, alter, change or eliminate any rules, regulations,
1055 fees, charges and rates of the city, and to impose such additional conditions that are not
1056 inconsistent with the rights granted by this ordinance, upon the company and all
1057 persons, firms or entities of the same class as the company, as may be reasonably
1058 necessary in the discretion council to preserve and protect the public, health, safety and
1059 welfare and/or insure adequate service to the public.

1060 **Sec. 6-20028. - Taxes.**

1061 The company shall promptly pay all lawful ad valorem taxes, levies and
1062 assessments, if any, that are imposed upon the company. Absent an administrative or
1063 judicial challenge, or appeal, the failure to pay any such tax, levy or assessment is a
1064 breach of this ordinance.

1065 **Sec. 6-20029. - Public necessity.**

1066 The council hereby finds and declares that the public welfare, convenience and
1067 necessity require the garbage collection services provided by the city under this
1068 ordinance.

1069 **Sec. 6-20030. - Severability.**

1070 If any section, paragraph, subdivision, clause, part or provision hereof is adjudged
1071 invalid or unconstitutional the same shall not affect the validity hereof as a whole or any
1072 part or provision other than the part or parts held invalid or unconstitutional.

Sec. 6-20031. - Interpretation.

The use of captions or headings for the various sections of this ordinance are for convenience of parties only and do not reflect the intent of the parties. The rule of interpretation to solve ambiguities in a contract against the party drafting such contract shall not apply to this ordinance.

Sec. 6-20032. - No suspension of laws.

All provisions of the ordinances of the city as now existing or as may be amended from time to time, and all provisions of the statutes of the state applicable to general law cities is a part of any resulting contract from this ordinance as fully as if the same had been expressly stated herein, and said city retains and may exercise all of the governmental and police powers and all other rights and powers not directly inconsistent with the terms, conditions and provisions of this ordinance.

Sec. 6-20033. - Peaceful employment.

From and after the effective date of the ordinance from which this ordinance is derived, the city and the company is and are hereby authorized and entitled to act in reliance upon the terms, conditions and provisions of this ordinance and any resulting contract and, subject thereto, the company shall collect rates for service, operate and conduct its business and work within the city, and enjoy the benefits and privileges of this ordinance during the term hereof.

Appendix I

Residential Recovered Materials

1. Aluminum
2. Cardboard
3. Glass
4. Junk mail
5. Kraft paper

- 1100 6. Magazines and shopping catalogues
- 1101 7. Mixed paper
- 1102 8. Newspaper
- 1103 9. Other paper
- 1104 10. Paperboard
- 1105 11. Plastics #1. - Soda and water bottles
- 1106 12. Plastics #2. - Milk jugs, juice bottles, and yogurt tubs
- 1107 13. Plastics #3. - Detergent and household cleaner containers, shampoo, and
- 1108 cooking
- 1109 14. Plastics #4. - Squeezable bottles
- 1110 15. Plastics #5. - Syrup, ketchup, and medicine bottles, plastic caps, straws, and
- 1111 some yogurt containers
- 1112 16. Plastics #6. - Disposable plates and cups, gg cartons, aspirin bottles, and CD
- 1113 cases
- 1114 17. Plastics #7. - Three and five-gallon water bottles, certain food containers
- 1115 18. Steel

1116 *****

1117 **Section 2.** It is hereby declared to be the intention of the Mayor and Council that:

1118 (a) All sections, paragraphs, sentences, clauses and phrases of this ordinance are or

1119 were, upon their enactment, believed by the city Council to be fully valid, enforceable

1120 and constitutional.

1121 (b) To the greatest extent allowed by law, each and every section, paragraph,

1122 sentence, clause or phrase of this ordinance is severable from every other section,

1123 paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph,

1124 sentence, clause or phrase of this ordinance is mutually dependent upon any other

1125 section, paragraph, sentence, clause or phrase of this Ordinance.

1126 (c) In the event that any phrase, clause, sentence, paragraph or section of this

1127 ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or

1128 otherwise unenforceable by the valid judgment or decree of any court of competent

1129 jurisdiction, it is the express intent of the city Council that such invalidity,

1130 unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
1131 render invalid, unconstitutional or otherwise unenforceable any of the remaining
1132 phrases, clauses, sentences, paragraphs or sections of the Ordinance.


1133 **Section 3.** All ordinances and parts of ordinances in conflict herewith are hereby
1134 expressly repealed.

1135 **Section 4.** The effective date of this ordinance shall be the date of adoption
1136 unless provided otherwise by the city Charter or state and/or federal law.
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1174 The foregoing **ORDINANCE NO. 2018-041** was adopted on **October 23, 2018** was
1175 offered by Councilmember **Rowell**, who moved its approval. The motion was seconded
1176 by Councilmember **Gumbs**, and being put to a vote, the result was as follows:

1177			
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1179		AYE	NAY
1180			
1181	William "Bill" Edwards, Mayor	<hr/>	<hr/>
1182	Mark Baker, Mayor Pro Tem	<hr/>	<hr/>
1183	Catherine Foster Rowell	<hr/>	<hr/>
1184	Carmalitha Lizandra Gumbs	<hr/>	<hr/>
1185	Helen Zenobia Willis	<hr/>	<hr/>
1186	Gertrude Naeema Gilyard	<hr/>	<hr/>
1187	Rosie Jackson	<hr/>	<hr/>
1188	khalid kamau	<hr/>	<hr/>
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1193 THIS ORDINANCE so adopted this 23rd day of October 2018, CITY OF SOUTH
1194 FULTON, GEORGIA.
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1201 WILLIAM "BILL" EDWARDS, MAYOR
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1207 ATTEST:

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1211 MARK MASSEY, CITY CLERK
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1216 ITEM# Ord 2018-041 DATE 10/23/2018
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1219 APPROVED AS TO FORM:

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1222
1223 EMILIA C. WALKER, CITY ATTORNEY
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