

**FORSYTH COUNTY
BOARD OF COMMISSIONERS**

**BRIEFING
DRAFT**

MEETING DATE: First Reading: MAY 24, 2018
Second Reading: JUNE 21, 2018

AGENDA ITEM NUMBER:

23

SUBJECT: ORDINANCE AWARDING FRANCHISES FOR RESIDENTIAL AND SMALL BUSINESS SOLID WASTE COLLECTION, TRANSPORTATION AND DISPOSAL SERVICES AND ADDING OPTIONAL RECYCLING SERVICES IN UNINCORPORATED AREAS OF FORSYTH COUNTY (OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

The franchise awarded to Waste Management of Carolinas, Inc. for residential and small business solid waste collection, transportation and disposal services in unincorporated areas of Forsyth County designated as Franchise Areas 4, 8, 9, 10, 11, 13 and 15 is scheduled to end on December 31, 2018. These seven franchise areas make up approximately half of the County's unincorporated area and include approximately 11,829 households.

After a thorough review of submittals from six prospective franchise holders in response to a request for qualifications and proposals for solid waste franchises with optional recycling services, including technical qualifications, financial documentation, performance histories and proposed rates for optional recycling service, County staff recommend that franchises be awarded to ABC Garbage, Inc. for Franchise Areas 8 and 13; to North Davidson Garbage Service, Inc. for Franchise Areas 9 and 10; and to Rural Garbage Service, Inc. for Franchise Areas 4, 11 and 15. The rates for solid waste collection service will be the same as the current franchises, subject to revisions as authorized by the Board of County Commissioners for the fuel surcharge or tipping fees.

Optional recycling service will be required as a condition of the franchises and will be subject to open market conditions. The County will not control the rates for optional recycling service or protect the service areas from potential competition. The proposed rates for optional recycling service are \$7/month for ABC Garbage Service and Rural Garbage Service and \$6/month for North Davidson Garbage Service for single stream curbside collection every other week.

If awarded, the proposed franchises will become effective January 1, 2019 and end December 31, 2021. Staff also recommends including two additional two-year renewals unless the County or the franchise holder provides 180 days' written notice of termination prior to expiration of the initial term or a two-year additional term.

ATTACHMENTS: YES NO

SIGNATURE:

J. Dudley Watts, Jr.
COUNTY MANAGER

DATE: May 23, 2018

**ORDINANCE AWARDING FRANCHISES FOR RESIDENTIAL AND SMALL
BUSINESS SOLID WASTE COLLECTION, TRANSPORTATION AND
DISPOSAL SERVICES AND ADDING OPTIONAL RECYCLING SERVICES IN
UNINCORPORATED AREAS OF FORSYTH COUNTY
(OFFICE OF ENVIRONMENTAL ASSISTANCE AND PROTECTION)**

WHEREAS, the Forsyth County Board of Commissioners previously awarded franchises for residential and small business solid waste collection, transportation and disposal services in unincorporated areas of Forsyth County designated as Franchise Areas 4, 8, 9, 10, 11, 13 and 15, which franchises are scheduled to expire December 31, 2018; and

WHEREAS, the Forsyth County Board of Commissioners is considering awarding new franchises for residential and small business solid waste collection, transportation and disposal services in these designated unincorporated areas of Forsyth County beginning January 1, 2019 and ending December 31, 2021 on the condition that the franchise holders will provide optional recycling collection services in their respective assigned areas; and

WHEREAS, after a thorough review of submittals from six prospective franchise holders in response to a request for qualifications and proposals for solid waste franchises with optional recycling services, including technical qualifications, financial documentation, performance histories and proposed rates for optional recycling service, County staff recommend that franchises be awarded to ABC Garbage, Inc. for Franchise Areas 8 and 13; to North Davidson Garbage Service, Inc. for Franchise Areas 9 and 10; and to Rural Garbage Service, Inc. for Franchise Areas 4, 11 and 15, effective January 1, 2019 and ending December 31, 2021; and

WHEREAS, the rates for solid waste collection service will be the same as the current franchises, subject to revisions as authorized by the Board of County Commissioners for the fuel surcharge or tipping fees; and

WHEREAS, optional recycling service will be required as a condition of the franchises and will be subject to open market conditions; the County will not control the rates for optional recycling service or protect the service areas from potential competition; and

WHEREAS, ABC Garbage, Inc., North Davidson Garbage Service, Inc., and Rural Garbage Service, Inc. have demonstrated the requisite qualifications for franchise holders and are willing to provide residential and small business solid waste collection, transportation and disposal services in unincorporated areas of Forsyth County through December 31, 2021 for the same fees as the current franchises, except as periodically revised as authorized by the Board of County Commissioners for fuel surcharge fees or tipping fees, with the addition of optional recycling collection services;

NOW, THEREFORE, BE IT ORDAINED that the Forsyth County Board of Commissioners hereby awards franchises to ABC Garbage, Inc. for Franchise Areas 8 and 13; to North Davidson Garbage Service, Inc. for Franchise Areas 9 and 10; and to Rural Garbage Service, Inc. for Franchise Areas 4, 11 and 15, effective January 1, 2019 and ending December 31, 2021, under the current fee schedule, except as periodically revised as authorized by the Forsyth County Board of Commissioners for fuel surcharge fees or tipping fees, with the addition of optional recycling collection services in their respective assigned areas.

BE IT FURTHER ORDAINED that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, an Ordinance Agreement which is consistent with the provisions set forth herein and incorporated herein by reference.

Adopted on first reading this 24th day of May 2018.

Adopted on second reading this 21st day of June 2018.

**FRANCHISE ORDINANCE AGREEMENT FOR RESIDENTIAL AND SMALL
BUSINESS SOLID WASTE COLLECTION, TRANSPORTATION AND DISPOSAL
SERVICES AND ADDING OPTIONAL RECYCLING SERVICES IN
UNINCORPORATED AREAS OF FORSYTH COUNTY**

WHEREAS, pursuant to the authority provided by N.C. General Statutes, Chapter 153A, Chapter 19 of the Forsyth County Code, and other applicable laws, the Forsyth County Board of Commissioners hereby considers the following ordinance granting franchises for residential and small business service collection, transportation, and disposal of solid waste to be in the best interests of Forsyth County; and

WHEREAS, the Forsyth County Board of Commissioners is satisfied that each of the proposed franchise holders has demonstrated the qualifications for a solid waste management permit issued by the County to collect and transport solid waste and will comply with all applicable regulations, and will render prompt, efficient, and continuing service to the area(s) for which their respective franchise is granted, and that each proposed franchise holder has sufficient equipment and personnel to render the proposed services to all within their respective franchise area(s);

NOW, THEREFORE, BE IT ORDAINED that the Forsyth County Board of Commissioners hereby grants franchises for residential and small business service collection, transportation and disposal of solid waste to the following entities, pursuant to the following terms and conditions:

Section 1. Franchise Holders

Franchises for the residential and small business service collection, transportation and disposal of solid waste are hereby granted, as listed herein below, to the following persons, firms and/or corporations to provide services to the areas indicated. These franchises are granted based on the condition that each of the firms listed herein provide optional curbside recycling collection service to all eligible properties within their franchise service areas. For purposes of this ordinance, “private corporation” means a corporation in which the shares of stock are closely held or not publicly traded; “public corporation” means a corporation in which the shares of stock are traded on a recognized exchange; and “proprietorship” means a business which is not incorporated and is not a partnership. This Ordinance shall extend, replace, and supersede the Ordinance which was adopted and became effective January 1, 2012, and was extended to December 31, 2018, which granted franchises for residential and small business service collection, transportation, and disposal of solid waste in unincorporated areas of Forsyth County, and the Ordinance which was adopted on January 18, 2018 extending two franchises and adding optional recycling services.

| Franchise area | Franchise Collector |
|-----------------------|--|
| 1, 8, 13 | ABC Garbage, Inc. P.O. Box 546 Rural Hall, NC 27045 Phone: (336) 985-3572 Darrell and Mike Marshall (Private Corporation) |

**2, 3, 4, 7, 11, 12A, 12B
14, 15** **Rural Garbage Service, Inc.
P.O. Box 543
Kernersville, NC 27285
Phone: (336) 993-4307
Chris Parrish
(Private Corporation)**

9, 10 **North Davidson Garbage Service, Inc.
P.O. Box 90
Welcome, NC 27374
Phone: (336) 731-4025
(Private Corporation)**

******* (There is no area #5 or #6)**

Section 2. Franchise Area

With the exclusion of land areas located within incorporated municipalities, the residential and small business franchise holders as set forth in Section 1 above are hereby granted franchises for the areas designated in Section 1 of this ordinance, as further described in the attached documents entitled "Map of Franchise Area" and "Description of Residential and Small Business Service Franchise Areas", which documents are incorporated herein by reference, and are on file and available for public inspection in the office of the Clerk to the Board of Commissioners. The documents designate the franchise areas by franchise numbers.

Section 3. Nature of Franchises

The franchises granted herein for residential and small business service collection, transportation and disposal of solid waste shall be and are hereby adopted as exclusive franchises within the respective areas designated.

Section 4. Period of Franchise

The franchises for residential and small business service collection, transportation and disposal of solid waste are hereby granted for a period beginning January 1, 2019 through December 31, 2021. These franchises will be automatically extended for two additional two-year terms unless the County or the franchise holder provides one hundred eighty (180) days' written notice of termination prior to the expiration of the initial term or of either of the two, two-year additional terms.

Section 5. Establishment of Limits On Fees for Certain Residential And Small Business Solid Waste Collection, Transportation and Disposal Services

- (a) (i) There are hereby established and imposed limits on fees for collection, transportation, and disposal for residential and small business solid waste service in the amount of \$14.57 per household/location per month for curbside pickup (which includes the State Solid Waste Disposal Tax), not including a fuel surcharge fee which is adjusted quarterly based on the average price of diesel fuel during the preceding ninety-day period and determined using Exhibit A which is attached hereto and incorporated herein by reference per household per month as authorized by the Forsyth County Board of Commissioners on May 12, 2008. This fee shall be charged for once per week collection of no more than 64 gallons of solid waste. Subscribers with additional volume shall be charged additional

fees at a rate of \$5.00 per month for each additional 32 gallons of solid waste collected weekly.

- (ii) The fee for collection, transportation, and disposal for residential and small business solid waste service currently in the amount of \$14.57 per household per month may be reviewed and adjusted by the Forsyth County Board of Commissioners in its sole discretion in a proportional amount based on average amount of household waste in response to any increases in the tipping rate charged to franchise collectors by the landfill or disposal facility.
- (b) Subscribers with special needs and approved documentation shall receive back yard collection services for no additional fees if the containers are not more than one hundred fifty (150) feet from a passable public road and access is free from interference from dangerous animals or other obstructions. Any subscriber requesting back yard collection must submit proof of special needs to the County Manager or his designated representative. In its sole discretion, the County shall determine whether such special needs exist.
- (c) Residential and small business franchise holders may charge an additional three dollars (\$3.00) per month for rent of roll-out containers that may be provided by the franchise holder upon request by the subscriber.
- (d) Franchise holders are authorized by this ordinance to bill subscribers for no more than three (3) months in advance of services rendered.

Section 6. Fees for Additional or Special Services

The fees for optional curbside recycling collection, transportation, and disposal services will not be regulated by Forsyth County.

Holders of franchises for residential and small business service are hereby granted a non-exclusive franchise for additional or special services which may include the collection, transportation and disposal of yard waste, demolition materials, white goods, and tires, but does not apply to the collection, transportation or disposal of containerized commercial and industrial material, which is not covered by this Ordinance. The franchise holders must comply with all applicable laws, regulations and other permits, which may be required in providing these services. Fees charged for such additional or special services may be agreed upon by the franchise holder and subscriber, subject to review and approval by the County Manager as to reasonableness if it is deemed advisable.

Notwithstanding anything to the contrary herein, the County reserves the right to award an exclusive franchise for the collection, transportation and disposal of yard waste, demolition materials, white goods, tires, and recyclable materials, or any one or more of these materials. At such time as an exclusive franchise is awarded for the collection, transportation, and disposal of any such material, all non-exclusive franchises for the collection, transportation, and disposal of the same material shall immediately terminate.

Section 7. Authority to Adjust Franchise Fees

- (a) Except as authorized by Subsections 7(b) and 9(h), the fees for residential and small business solid waste collection, transportation, and disposal services as outlined in Subsection 5 above may only be revised by action of the Forsyth County Board of Commissioners and shall not be adjusted during the first two years of the initial term of the franchise.

- (b) The fuel surcharge will continue in effect and shall apply to the fees for weekly services set out in Section 5(a).

Section 8. Required Service

- (a) Within each franchise area, the assigned franchise holder must provide service once per week to everyone who requests it for residential and small business solid waste collection, transportation, and disposal and related additional or special services as authorized herein. The Board of Commissioners may from time to time require residential and small business solid waste franchise holders to provide special programs of solid waste collection, transportation and disposal sponsored and paid for by the County.
- (b) Each Franchise Holder must provide optional curbside recycling collection, transportation, and disposal service within their assigned franchise areas. Service will consist of curbside single stream collection of recyclables from a container provided by the Subscriber or by the Franchise Holder. Multiple containers may be used; however the basis for service shall be collection of up to ninety-six (96) gallons of total volume of recyclables at least once every two weeks. The service provider will be responsible for providing each recycling Subscriber with a sticker or label to clearly identify each container designated for recyclables. Each Franchise Holder must provide service to any household or small business in their designated franchise areas that requests recycling service, unless the party is more than thirty (30) days in arrears in payment for such service.

Section 9. Additional Conditions and Requirements

- (a) Residential and small business solid waste containers shall be watertight metal or plastic containers with covers. Back yard service shall be provided by the franchise holder for any authorized subscriber with special needs, if the containers are not more than one hundred fifty (150) feet from a passable public road and access is free from interference from dangerous animals or other obstructions.
- (b) After first obtaining approval from the County Manager's Office, during emergencies, to ensure uninterrupted service within each residential and small business solid waste franchise area, adjoining franchise holders shall provide collection, transportation, and disposal services and assistance for a period not to exceed ninety (90) days to franchise areas without service. It shall be the responsibility of the franchise holder of the area without service to obtain the necessary approval from the County Manager's Office and to arrange for the service and assistance, and to resolve financial compensation for said service and assistance.
- (c) The Board of Commissioners or the County Manager may require franchise holders to submit such information and reports as the Board or the Manager deem necessary or advisable in the administration of this ordinance. The minimum quarterly reporting requirements for each three-month billing period shall include but may not be limited to the total quantity of solid waste collected by the franchise holder, in tons; the total quantity of recyclables collected by the franchise holder, in tons; the total number of subscribers for solid waste collection service; the total number of subscribers for recycling collection service; the number of new subscribers; and the number of subscribers whose service was terminated for any reason. Quarterly reports are due by the 15th day of the first

month following the end of each quarter (April 15, June 15, October 15, January 15).

The following items and information shall be provided to the County upon request: a sample quarterly bill or invoice for subscribers receiving basic collection service for up to 64 gallons of weekly volume of solid waste; a sample quarterly bill or invoice for subscribers receiving weekly collection service for up to 96 gallons of solid waste; the names and addresses of subscribers for solid waste and/or recycling collection services.

- (d) "Once per week" means the same day each week service except for extreme weather conditions (snow or ice), equipment breakdowns, or holidays. Service shall be resumed as quickly as possible following any unavoidable delay.
- (e) "Once every two weeks" means the same day every other week service except for extreme weather conditions (snow or ice), equipment breakdowns, or holidays. Service shall be resumed as quickly as possible following any unavoidable delay.
- (f) All solid waste collected under this Ordinance must be deposited at a municipal solid waste landfill or transfer station with a valid state permit.
- (g) All recyclables collected by franchise holders must be deposited at a Materials Recovery Facility approved by the County Manager or his designated representative.
- (h) In the event of new technological developments or collection methods that the Board of County Commissioners deems beneficial to the citizens of Forsyth County, the County reserves the right to amend and renegotiate these franchises to implement such methods. This could include adjustments in authorized fees or financial compensation to franchise holders.
- (i) Franchise holders must have a local customer service telephone number and contact person in North Carolina and shall make every reasonable effort to respond to telephone and e-mail inquiries by subscribers, potential subscribers, and County administration, within 24 hours, during the regular business week or on the next business day following contact on a weekend or holiday.

Section 10. Record of Franchise

Approved franchise applications and the documents described in this ordinance and in Section 19-51 of the Forsyth County Code shall be maintained and kept on file in the office of the Clerk to the Board of Commissioners.

Franchise holders shall provide subscribers with a written schedule for collection of solid waste and/or recyclables.

Section 11. Termination of Franchise

Franchise holders must provide the County Manager at least one hundred eighty (180) days' prior written notice of intent to terminate their franchise or discontinue any services in the franchise area. Franchise holders may not sell or otherwise transfer the franchise to any other provider in exchange for any consideration. If a franchise holder fails to provide services as required in this ordinance, the County Manager shall have the authority to suspend the franchise subject to possible termination by the Board of County Commissioners as provided in Section 19-50 of the Forsyth County Code.

Section 12. Applicable Laws and Regulations

The franchises granted by this ordinance and their continuation are conditioned upon the franchise holder's compliance with all applicable federal, state and local laws and regulations, particularly those relating to residential and small business solid waste collection, transportation, and disposal, including but not limited to Chapter 19 of the Forsyth County Code. The franchises and their continuation are also conditioned upon Forsyth County's continued jurisdiction, legal authority, and decision to administer and control the area of residential and small business solid waste collection, transportation and disposal.

Section 13. Effective Date

This ordinance becomes effective on January 1, 2019.

Adopted on first reading this 24th day of May 2018.

Adopted on second reading this 21st day of June 2018.

Forsyth County

By: _____
Name/Title

ABC Garbage, Inc.

By: _____
Name/Title

North Davidson Garbage Services, Inc.

By: _____
Name/Title

Rural Garbage Service, Inc.

By: _____
Name/Title

Exhibit A

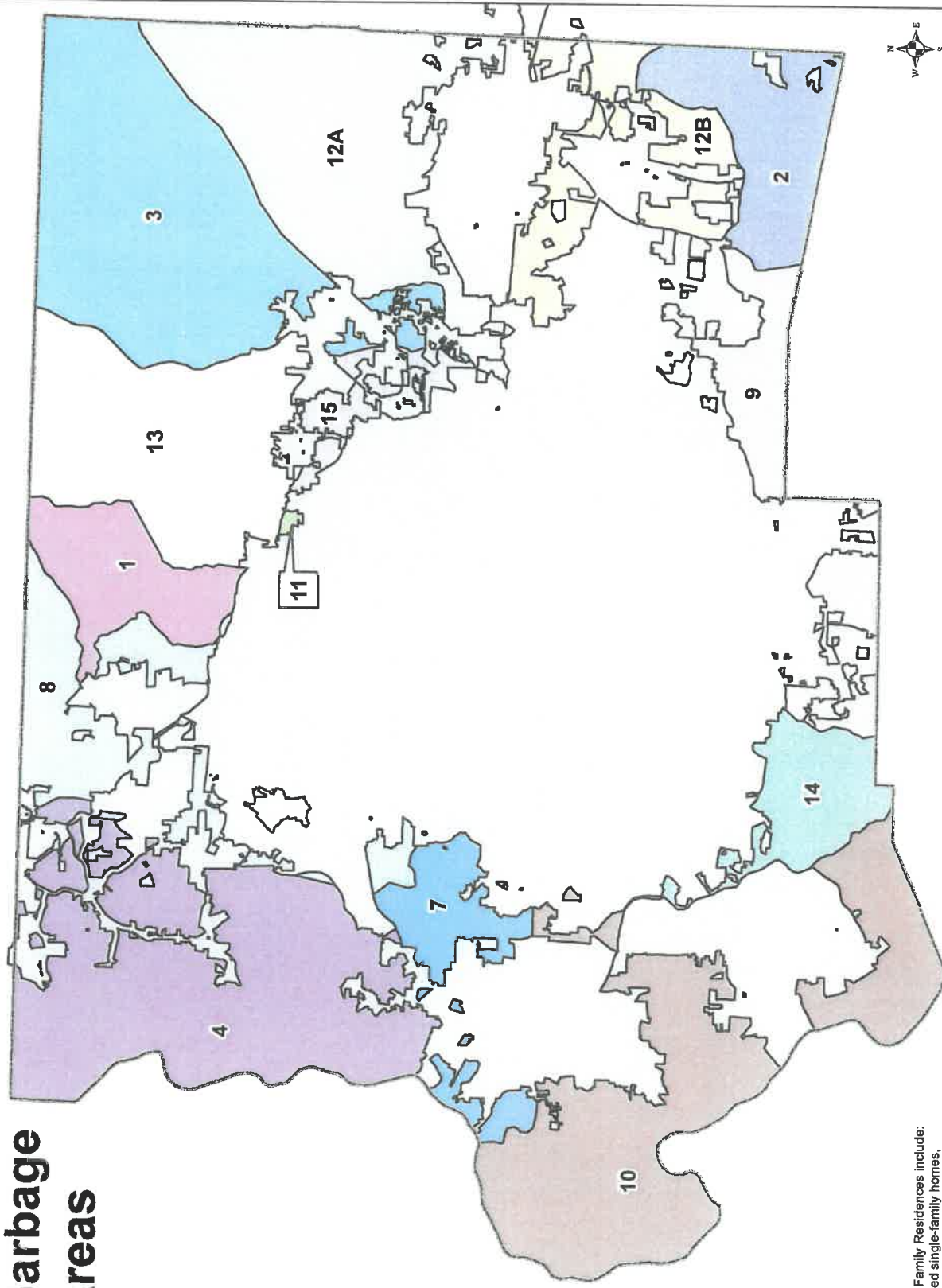
| Diesel Price | Fuel Surcharge |
|---------------------|-----------------------|
| \$1.50 | -\$0.67 |
| \$1.75 | -\$0.54 |
| \$2.00 | -\$0.41 |
| \$2.25 | -\$0.28 |
| \$2.50 | -\$0.15 |
| \$2.75 | -\$0.02 |
| \$3.00 | \$0.11 |
| \$3.25 | \$0.24 |
| \$3.50 | \$0.37 |
| \$3.75 | \$0.50 |
| \$4.00 | \$0.63 |
| \$4.25 | \$0.76 |
| \$4.50 | \$0.89 |
| \$4.75 | \$1.02 |
| \$5.00 | \$1.15 |

Franchise Garbage Service Areas

| Service Area | Single Family Residences |
|--------------|--------------------------|
| 1 | 1,466 |
| 2 | 1,626 |
| 3 | 3,011 |
| 4 | 2,360 |
| 7 | 1,401 |
| 8 | 1,400 |
| 9 | 2,153 |
| 10 | 3,563 |
| 11 | 2 |
| 12A | 4,401 |
| 12B | 2,042 |
| 13 | 1,671 |
| 14 | 449 |
| 15 | 692 |

Service Area

- 1
- 2
- 3
- 4
- 7
- 8
- 9
- 10
- 11
- 12A
- 12B
- 13
- 14
- 15
- Municipal Service Provider
- County Boundary



Single Family Residences include:
detached single-family homes,
mobile homes, duplex, triplex and
quadraplex.

Map Created April 25, 2018