

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney



DATE: April 28, 2023

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 90 OF THE MIAMI BEACH CITY CODE, ENTITLED "SOLID WASTE," BY AMENDING ARTICLE IV THEREOF, ENTITLED "PRIVATE WASTE CONTRACTORS," BY CREATING SECTIONS 90-197, 90-198, AND 90-236 TO ESTABLISH A FRAMEWORK FOR REGULATING BROKERS WHO PROCURE SOLID WASTE COLLECTION SERVICES FROM PRIVATE WASTE CONTRACTORS FOR THE BENEFIT OF THIRD PARTIES, AND AMENDING SECTIONS 90-192 THROUGH 90-230 TO CONFORM EXISTING REGULATIONS APPLICABLE TO BROKERS AND AMEND CERTAIN REQUIREMENTS RELATED TO PRIVATE WASTE CONTRACTORS; AND FURTHER, AMENDING CHAPTER 102 OF THE CITY CODE, ENTITLED "TAXATION," BY AMENDING V, ENTITLED "LOCAL BUSINESS TAX," BY AMENDING SECTION 102-379 THEREOF, TO CREATE A BUSINESS TAX CATEGORY FOR BROKERS; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

The proposed ordinance, sponsored by Commissioners Alex Fernandez and David Richardson, is submitted for consideration on First Reading at the April 28, 2023 City Commission meeting.

The City regulates private waste contractors providing solid waste collection and disposal services in Chapter 90 of the City Code. Pursuant to the City Code, the City Commission has authorized an exclusive franchise for single family residential waste services (including multi-family buildings with less than nine units), with fixed rates established in the City Code, and non-exclusive franchises for commercial properties and multi-family buildings with more than nine units, with the rates subject to competitive pricing and market competition.

With respect to the non-exclusive franchises, commercial and multi-family properties have the ability to work with waste management brokers, who use their industry knowledge and experience to negotiate terms with the City's franchisees. Typically, the customer would enter into a contract with the broker for the provision of waste services for the customer, and the broker would, in turn, enter into a contract with the franchisee.

Currently, the City does not regulate waste services brokers. Accordingly, the proposed Ordinance seeks to establish a waste services program for brokers, to bring the activities of brokers within the framework of Chapter 90 of the City Code. The Ordinance does the following:

- Creates a definition for brokers;
- Creates a permit process and establishes a permit fee for brokers;
- Requires brokers to maintain insurance;
- Requires an additional brokers fee payable to the City, consisting of 15% of the broker's gross receipts less their payments to franchisees (the City separately collects 15% of the gross receipts that the franchisees receive from brokers);
- Requires brokers to provide certain information to the City regarding customer accounts;
- Requires contracts between brokers and customers to include specific provisions i.e., as to frequency of service, the ability of customers to submit complaints directly to either the City or the franchisee, and provisions regarding the term of agreements with customers and prohibition of automatic renewals; and
- Creates a separate BTR category for brokers, to allow the City to track businesses engaging in waste brokerage services in the City.

If approved on first reading on April 28, 2023, we anticipate that second reading of the proposed ordinance will be noticed for the May 17, 2023 City Commission meeting.

RAP/ag