

ORDINANCE NO. _____

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 ARTICLE 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.

WHEREAS, Chapter 90 of the City Code includes the City's comprehensive framework for the regulation and provision of waste collection services and disposal in the City; and

WHEREAS, currently, the City utilizes a non-exclusive franchise model, with the City Code allowing up to 5 non-exclusive franchisees, which may only provide waste collection services with approval of the City; and

WHEREAS, the City desires to regulate the conduct of brokers who act as intermediaries between the customers and the City's franchisees, in order to close any gaps in the regulatory framework and avoid any potential abuses relating to the provision of waste collection and disposal services in the City

WHEREAS, the following amendments to Chapter 90 and Chapter 102 of the City Code are necessary to accomplish this objective.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. Articles I, and IV of Chapter 90, entitled "Solid Waste" are hereby amended as follows:

CHAPTER 90 SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 90-1. Legislative intent.

It is the purpose of this chapter to ensure that areas within the city are adequately provided with high-quality solid waste collection and disposal service. Because of the overriding public health, safety and welfare considerations associated with the provision of this service, it is necessary that the city retain regulatory authority over solid waste collection and disposal. The provisions of this chapter will also ensure that this service is efficient and responsive to public complaints and that the public convenience, aesthetic and environmental considerations, and the public investment in right-of-way property are protected.

Sec. 90-2. Definitions.

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

Agent or registered agent means a person registered with the city's code compliance department and designated by the property owner to administer and manage a property.

Apartment building means a building with or without resident supervision occupied or intended to be occupied by more than two persons, or families, living separately with separate cooking facilities in each unit. For purposes of this chapter, this particular definition shall include a condominium or cooperative building, but not a duplex.

Apartment unit means a room or group of rooms occupied or intended to be occupied as separate living quarters by one or more persons, or a family, containing independent cooking facilities. For purposes of this chapter, this definition shall include a condominium unit or cooperative unit, but not a duplex.

Biohazardous waste means any solid waste that may present a threat of infection to humans. The term includes, without limitation, nonliquid human tissue and body parts; laboratory and veterinary waste containing human-disease-causing agents; used disposable sharps; human blood, human blood products, and any bodily fluids; and other materials representing a significant risk of infection to persons.

Biohazardous waste contractor means a private waste contractor who collects and disposes of biohazardous waste.

Broker means a person that is in the business of procuring solid waste collection services from private waste contractors for the benefit of third parties. A person in the business of leasing or otherwise providing compactors to the public is not a broker unless such person also procures collection services from private waste contractors for the benefit of third parties that receive such compactors. A property manager is not a broker, even if the property manager procures collection services from private waste contractors for the benefit of the property manager's tenants.

Broker services permit means the permit that a broker must obtain pursuant to section 90-197, below.

Building department director means the city's building official, appointed by the city manager to administer and enforce the Florida Building Code in the city. This definition also includes the building official's designee(s) working under his/her supervision.

Bulky waste means large item(s) of household refuse, including, without limitation, appliances, furniture, accumulations from major tree cutbacks (exceeding ten inches in diameter and four feet in length), large crates, and like articles.

Business tax shall have the same meaning ascribed in section 102-356.

Business tax receipt shall have the meaning ascribed to the word "receipt" in section 102-356.

Commercial establishment means an establishment dealing in an exchange of goods or services for money or barter. For purposes of this chapter, the term shall include churches, synagogues and schools.

Commercial refuse means all solid waste produced by commercial establishments.

Condominium unit means the same as "apartment unit."

Construction and demolition debris means discarded material generally considered not to be water-soluble or hazardous, including, without limitation, steel, concrete, glass, brick, asphalt roofing material, or lumber from a construction or demolition project. Commingling construction and demolition debris with any amount of other types of solid waste will cause it to be classified as other than construction and demolition debris.

Cooperative unit means the same as "apartment unit."

Customer means a person that receives collection service or other solid waste management services in the city from a private waste contractor or broker.

Dumpster means a container used in the waste industry, and approved for use in the city by the city manager, with a tight fitting top and a minimum capacity of one-half cubic yard or between 100 and 133.3 gallons. For purposes of this chapter, compact containers shall also be considered dumpsters.

Duplex means a detached building, divided horizontally or vertically, and designed as two separate units to be occupied by one or more persons, or families, each living separately, with separate kitchens in each housekeeping unit.

Dwelling means a building or portion thereof designed or used for residential occupancy.

Dwelling unit means a room or group of rooms occupied or intended to be occupied as separate living quarters by one or more persons, or a family.

Franchise waste contractor means a private waste contractor, approved pursuant to section 90-221 et seq., who enters into a franchise agreement with the city for the collection and disposal of solid waste in the city, and who pays a percentage of its gross earnings to the city pursuant to this chapter.

Front yard means an open area extending the full width of the lot between the main building and the front lot line.

Garbage means every refuse accumulation of animal, fruit, vegetable or organic matter that attends the preparation, use, cooking and dealing in or storage of meats, fish, fowl, fruit or vegetables, and decay, putrefaction and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

Garbage can or container means a container which has been approved for use in the city by the city manager, made of galvanized metal, durable plastic or other suitable material of a capacity not less than ten gallons but not to exceed 30 gallons for collection of solid waste awaiting pickup and disposal. Such can or container shall have two handles upon the sides thereof, or a bail, by which it may be lifted, and shall have a tightening solid top.

Garbage facility includes garbage can or container, dumpster and trash container.

Garbage storage facility means a structure enclosed on the bottom and all sides (except the top), which may be open or closed, constructed of solid material, and having sufficient capacity to hold all garbage facilities required for a particular establishment including, without limitation, an apartment building or other multifamily residence, duplex, hotel, and/or a commercial establishment.

Garden means a piece of ground used for the growing of fruits, flowers, or vegetables; a well-cultivated region (e.g. a lawn).

Garden trash means all accumulation of lawn, grass or shrubbery cuttings or clippings and leaf rakings, free of dirt, rock, large branches, and bulky or noncombustible materials, which can be containerized.

Gardener means a person whose business or occupation is the making or tending of gardens.

Grapple service means the use of a claw-like device such as, but not limited to, bobcats, self-loaders, loaders, and backhoes, to pick up construction and demolition debris; large quantities of trash (e.g. rubbish); and bulky waste; but not garbage or commercial refuse, and place it into a truck for disposal.

Grapple service contractor means a private waste contractor who performs grapple service.

Hazardous waste means any solid waste, which, because of its quality, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

Hazardous waste contractor means a private waste contractor who collects and disposes of hazardous waste.

Hotel means a building with ten or more dwelling units in which the majority of the dwelling units do not contain kitchens and which is licensed as a hotel.

Industrial waste means any solid waste generated by construction, land clearing, excavating of structures, roads, streets, sidewalks or parkways, and including, without limitation, waste collected for recycling, and oil, grease and petroleum.

Kitchen means a facility for preparing food containing, at a minimum, a sink with running water, a stove, and a refrigerator.

Landscape firm means a business entity engaged in planning to change or changing the natural scenery of a place for a desired purpose or effect. This definition includes state licensed and unlicensed landscape architects, landscape contractors, and landscape maintenance businesses.

Licensee means any person, which includes, without limitation, a corporation, partnership, sole partnership, limited liability corporation, or other business entity engaged in the business of removing, transporting or disposing of solid waste or recyclable materials in the city, and which is duly licensed by the city as provided for by this chapter.

Manager means the same as "operator."

Multifamily residence means a building occupied or intended to be occupied by two or more families living separately, with separate kitchens in each unit.

Occupant means any person using or having actual possession of any structure, building, lot, or premises, or part thereof.

Offense means a notice of violation that has not been appealed timely or a finding of a violation by a special magistrate following the appeal of a violation.

Operator or *manager* means any person who has control or use of or is in charge of, or has responsibility for, the care of any structure, building, lot, or premises, or part thereof.

Owner means any person who individually, or jointly or severally with others, holds the legal or beneficial title to any structure, building, lot, or premises (or part thereof), as well as to any facilities or equipment subject to the provisions of this chapter. For purposes of this chapter, the term shall also include an owner's duly authorized agent, a purchaser, devisee, fiduciary, property holder, or any other person having a vested or contingent interest; in the foretated, or, in the case of a lease, the legal holder of the lease, or his legal representative. It is further intended that for purposes of this chapter the term shall also be construed as applicable to the person responsible for the construction, maintenance and operation of a structure, building, lot, premises, facilities, or equipment involved.

Parkway means that area between the edge of the street and the adjacent property line, excluding that area occupied by the sidewalk.

Portable container means a dumpster, rollaway, or similar container designed for mechanized collection.

Premises means real property and includes any buildings or structures thereon.

Private waste contractor means any person engaged in the business of collection and disposal of solid waste within the city limits that has been approved and permitted by the city to perform such service including, without limitation, issued a current business tax receipt by the city to conduct such activity (or perform such service).

Recyclable materials means those materials capable of being recycled and which would otherwise be processed or disposed of as solid waste. Any recyclable material mixed with solid waste shall be considered to be solid waste.

Recycling means any process by which recyclable materials are collected, separated, or processed to be reused or returned to use in the form of raw materials or products.

Recycling container means a container approved by the city manager for collection of recyclable material by a recycling contractor.

Recycling contractor means a private contractor licensed by the city and state who collects recyclable materials and transports same to a state- or county-licensed recycling facility for processing. Recycling contractors must provide their customers with a separate recycling container for recyclable materials.

Regulated stash area means a disposal site which is either operated by the city or, if approved by the city commission, by a private waste contractor, where trash (e.g. rubbish) may be deposited.

Residential refuse means all garbage and trash (e.g. rubbish) originating in a dwelling or single-family residence.

Restaurant means a commercial establishment maintained and operated as a place where food is regularly prepared, served or sold for immediate consumption on or about the premises, or a commercial establishment where prepared food is called for, delivered to, or taken out by customers.

Rolloff means a container with a minimum capacity of ten cubic yards designed to be transported by a motorized vehicle.

Rolloff compaction container means a rolloff designed to hold or receive compacted garbage or trash.

Rolloff container means a metal container, compacted or open, approved by the city manager, that is designed and used by rolloff contractors for the collection and disposal of construction and demolition debris; large quantities of trash; and/or bulky waste; but not garbage or commercial refuse.

Rolloff contractor means a private waste contractor licensed by the city who uses rolloff containers for the collection and disposal of construction and demolition debris and/or large quantities of trash and/or bulky waste, but not garbage or commercial refuse.

Roominghouse means a building which is issued a business tax receipt by the city as a roominghouse or boardinghouse, containing less than ten dwelling units, and in which the majority of the dwelling units do not contain kitchens.

Rubbish or trash means refuse accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings and all other accumulations of a nature other than

garbage, which are usual to housekeeping and to the operation of stores, offices, and other places of business; and any bottles, cans or other containers, which, due to their ability to retain water, may serve as breeding places for mosquitoes or other water-breeding insects. Rubbish shall not include industrial waste.

Side yard means an open area between a building and the adjacent side of the lot, and extending from the front yard to the rear yard.

Single-family residence means a detached building designed for or occupied exclusively by one person or one family.

Single-family waste contractor means a private waste contractor who contracts with the city to provide solid waste collection and disposal service to single-family residences.

Single-stream recycling means a process by which certain recyclable materials are mixed together instead of being sorted into separate recycling containers in the collection process.

Solid waste includes bulky waste, commercial refuse, garden trash, tree and shrubbery, garbage, refuse, rubbish, special handling trash, trash, hazardous waste, biohazardous waste, industrial waste, residential refuse, white goods, or other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from domestic, industrial, commercial, mining, or agricultural operations.

Special handling garden trash means accumulation of tree branches, tree limbs, parts of trees, bushes and shrubbery over ten inches in diameter; which does not exceed four feet in length, and is too large to be containerized or bundled and tied.

Special handling wastes means wastes that can require special handling and management, including, without limitation, white goods, furniture, mattresses, and other bulky items of household trash; oils; whole tires; lead-acid batteries; and hazardous and biohazardous wastes; but excluding special handling garden trash.

Structure means anything constructed or erected so that its use requires permanent location on the ground.

Substantial rehabilitation means rehabilitation the cost of which exceeds 50 percent of the replacement value of the structure, as determined by the county property appraiser's office.

Townhouse means a single-family dwelling unit attached to a grouping of same on one building site, with each having separate ingress and egress facilities.

Trash means the same as "rubbish."

Trash container means any container used for temporary storage of trash (e.g. rubbish) approved by the city manager, but excluding garbage cans.

Tree and shrubbery trash means an accumulation of tree branches, tree limbs, parts of trees, bushes and shrubbery up to three inches in diameter but which does not exceed four feet in length, and which is too large to be containerized or requiring to be bundled and tied.

White goods mean discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

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ARTICLE IV. PRIVATE WASTE CONTRACTORS

DIVISION 1. GENERALLY

Secs. 90-171—90-190. Reserved.

DIVISION 2. LICENSE AND PERMIT

Sec. 90-191. Licenses, permits, indemnification, and insurance required for all contractors.

The requirements of this division are to:

- (1) Ensure and facilitate the collection of fees to provide uniformity and quality of service from the contractors;
- (2) Minimize wear and tear, traffic congestion, and noxious and noisome materials, odors and activities in and around city streets and other public rights-of-way and public property; and
- (3) Assure that the citizens of the city have safe, efficient, sanitary and qualified licensed contractors.

Sec. 90-192. Business tax receipt required.

- (a) No person shall engage in the business of disposal and/or collection of any kind of solid waste, or recyclable material within the city without first having been approved by the city manager, and having secured a current business tax receipt for such activity. The business tax receipt will be issued once an applicant has met all requirements, as set forth in this division and in chapter 18, and has paid the applicable business tax receipt fee.
- (b) Business tax receipts for private waste contractors shall be classified as follows:
 - (1) Franchise waste contractors;
 - (2) Rolloff and grapple service contractors;
 - (3) Recycling contractors;
 - (4) Hazardous waste contractors; and
 - (5) Biohazardous waste contractors.
- (c) Only franchise waste contractors shall not be required to obtain separate business tax receipts for servicing rollofts and portable containers; for collection of hazardous and biohazardous waste, and for recycling activities.

- (d) The city manager shall have the authority to create any additional business tax receipt classifications, as deemed necessary to protect the public health, safety, or welfare, subject to the approval of the city commission.
- (e) Any (and each) application for a business tax receipt for collection and disposal of any kind of solid waste shall require and be subject to the prior approval of the city manager, which approval, if given at all, shall be obtained prior to issuance of the particular business tax receipt.
- (f) Issuance of a business tax receipt shall require completion of an application form showing the name of the person to be licensed; (or in the case of a corporation or other business entity, the names of the principal partners, owners, officers and directors or the name of the person who will actually manage and operate the business), together with the business and home address of each person; the description of all equipment and vehicles to be used in such collection and disposal; and a description of the method of disposal, including the location of all garbage facilities. The applicant shall also provide evidence that any garbage facility described is licensed or approved by the city pursuant to this chapter. No applicant under this section shall substitute the permanent personnel named in its application, nor the equipment, vehicles, or methodology for disposal and collection, nor the location of garbage facilities described in its application, without first having reported such changes to the city manager, and obtained the manager's prior written approval of the substitution/change. In the case of changes in the location of disposal facilities, such changes shall also be approved by the proper authorities of the county and municipality where such disposal facility is located.
- (g) Any business tax receipt granted to a private waste contractor pursuant to this section shall not be assigned, nor shall any receipt remain valid, if the controlling stock ownership or voting rights of a contractor (who is a corporate entity) is transferred or assigned, except with the prior express written approval of the city manager.
- (h) Assignment or transfer (including, without limitation, the transfer of controlling stock ownership or voting rights) of a franchise waste contractor's business tax receipt and/or franchise agreement must first be approved by resolution of the city commission.
- (i) The foregoing restrictions on stock transfer shall not apply to corporations whose common stock is traded over the New York Stock Exchange or the American Stock Exchange, or that are institutional lenders.
- (j) In the event of any assignment or transfer pursuant to this section, the assignee shall execute an agreement of acceptance, subject to the approval of the city manager, evidencing that such assignee accepts the assignment subject to any or all of the provisions of this chapter and, if also a franchise waste contractor, of any applicable franchise agreement with the city; which acceptance shall also include an affirmative statement evidencing such assignee's intent to fulfill the obligations imposed under this chapter.
- (k) Notwithstanding the city's approval of an assignment or transfer of a franchise agreement, and the assignee's acceptance thereof, the original franchisee shall

guarantee the performance of its assignee; and such assignment shall always provide the city with full recourse to the original franchisee.

- (l) Any contractor doing business, as specified in subsection (b) of this section, within the city limits, without first obtaining the required business tax receipt, will be subject to enforcement procedures and penalties, as set forth in section 102-356 et seq. Failure to comply with the regulations set forth in this chapter or in chapter 18 may result in the suspension or revocation of the business tax receipt pursuant to chapter 18 and, if a franchise wash contractor, of suspension or revocation of the franchise.
- (m) If the private waste contractor provides collection services in the city pursuant to a contract between the contractor and a broker, the private waste contractor shall provide the name, address, and telephone number of the broker. In addition, when the private waste contractor submits the information required in section 90-223, the private waste contractor shall identify each account that is serviced pursuant to the private waste contractor's contract with the broker.

Sec. 90-193. Permit required.

The city manager shall require, and will issue, a permit for each garbage facility, recycling, hazardous and biohazardous waste, rolloff and portable container, for all solid waste accounts in the city serviced by a private waste contractor. The permit for solid waste collection and disposal shall be issued by the city manager after the contractor has complied with all requirements for obtaining a business tax receipt; any and all other requirements prescribed by this chapter; and has been cleared by the city's finance department. Rolloffs, portable containers and containers for recycling or hazardous and biohazardous wastes shall be included, except that all recycling containers situated in a single location on a property shall require only one permit.

Sec. 90-194. Observance of federal, state, local regulations.

All private waste contractors and brokers shall keep fully informed of all federal, state and local laws, ordinances, codes, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority that in any manner affect the work, or that in any way affect the conduct of their work. Contractors shall at all times observe and comply with all such laws, ordinances, codes, rules, regulations, and orders and decrees. Each private waste contractor and broker shall obtain all required licenses including, without limitation, business tax receipts) and permits to conduct business pursuant to this chapter.

Sec. 90-195. Indemnification.

Each private waste contractor and broker shall execute an indemnification agreement whereby the private waste contractor and broker covenants to indemnify, hold harmless and defend the city, its officers, agents and employees, against and assumes all liability for any and all claims, suits, actions, damages, liabilities, expenditures or causes of actions of any kind arising from any solid waste collection and/or disposal activities, and/or the use of any public streets for the purposes authorized in this chapter; or resulting or accruing from any negligence, act, omission or error of the contractor, its officers, agents or employees and/or arising from the failure of the private waste contractor or broker, and their respective officers, agents or employees, to comply with

each and every covenant of any applicable franchise agreement with the city, or with any other city or county ordinance or state or federal law applicable to its activities and resulting in or relating to bodily injury, loss of life or limb or damage to property sustained by any person. Each private waste contractor and/or broker (as applicable) shall hold the city, its officers, agents, and employees, harmless from and against all judgments, orders, decrees, attorney's fees, costs, expenses and liabilities incurred in and about any such claim, investigation or defense thereof, which may be entered, incurred or assessed as a result of the foregoing. ~~The~~Each private waste contractor and/or broker (as applicable) shall defend, at their sole cost and expense, any legal action, claim or proceeding instituted by any person against the city, its officers, agents and employees, as a result of any claim, suit or cause of action accruing from activities authorized by this chapter.

Sec. 90-196. Insurance required.

- (a) Each private waste contractor and broker must maintain throughout the entire effective period and/or term of its business tax receipt and/or franchise agreement, whichever term is longer, the following required insurance coverage:
 - (1) *Commercial general liability*, in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage. This policy must include coverage for contractual liability and specifically re-state the indemnity agreement set forth in section 90-195. The city must be named as an additional insured on this policy.
 - (2) *Automobile liability*, in the amount of \$1,000,000.00 per occurrence for bodily injury and property damage, covering all vehicles owned, leased or used by the private waste contractor or broker within the limits of the city. The city must be named as an additional insured on this policy.
 - (3) *Workers' compensation and employer's liability*, as required by state law.
- (b) All companies providing insurance shall be authorized to do business in the state and rated B+:VI or better by Best's Key Rating Guide, latest edition.
- (c) No change or cancellation of any insurance coverage shall be made without 30 days' written notice to the city's risk manager.
- (d) All required policies of insurance are intended to be primary coverage and non-contributory to any insurance or self-insurance of the city possesses that may be applied to a loss resulting from the work performed by the contractors pursuant to this chapter.
- (e) All policies shall provide full coverage from the first dollar of exposure. No deductibles will be allowed in any policies.
- (f) As evidence of the above required coverage, each private waste contractor and/or broker must provide original certificates of insurance to the city's risk manager, which must be approved by the risk manager prior to the issuance of a business tax receipt, or the commencement date of a franchise agreement, as the case may be. The contractor must submit a new certificate evidencing continuing or replacement coverage prior to the expiration date of the insurance policies and must submit annually certified copies of the liability policies required in subsections (a)(1), (2).

- (g) The city manager reserves the right to increase the kinds and amounts of insurance coverage required in this section, including the right to make periodic adjustments to the amounts of required coverage for inflation.
- (h) Operation of activities by the private waste contractor and/or broker (as applicable) without the required insurance shall be grounds for revocation or suspension of the private waste contractor's or broker's business tax receipt and/or franchise agreement.

Section 90-197. Broker services permit.

- (a) Any broker procuring collection services from private waste contractors for the benefit of someone else (i.e., a third party) shall obtain a broker services permit from the city, as set forth in this section 78-162.
- (b) Permit application and fee. An applicant for a broker services permit must submit a properly completed application to the city's public works department, upon such form and in such manner as shall be prescribed by the city, together with such other information as may be required by the department. The initial application and any renewal application shall include but not be limited to the following information:
 - (1) Name of applicant. If the applicant is a partnership or corporation, the names and business addresses of the principal officers and stockholders and other persons having any financial or controlling interest in the partnership or corporation. If the corporation is a publicly owned corporation, only the names and business addresses of the local officers, directors or agents with authority to bind the applicant shall be required.
 - (2) Method of operation. An applicant for a broker services permit shall provide the department with a current list of the names, service addresses, and billing addresses of each customer and account procured and/or managed in the city. For each account, the applicant shall identify and describe:
 - a. The type of service provided;
 - b. The frequency of service;
 - c. The type and capacity of each collection container used;
 - d. The name and contact information of the private collector servicing each account; and
 - e. If a compactor is provided to a customer by the applicant, the applicant shall provide a description of the compactor, including the type, size, and identification number of the compactor. The applicant also shall provide the name and contact information of the private collector that is responsible for the removal, transport or disposal of the compacted solid waste.
- (3) Insurance requirements.
 - a. All applicants shall obtain and maintain the insurance coverage required in section 90-196.

- b. As evidence of the above required coverage, the applicant must provide original certificates of insurance to the department with its initial application for a permit and with each renewal application. The applicant also must submit a new certificate evidencing continuing or replacement coverage prior to the expiration date of the insurance policies required in subsection (3)a., above.
 - c. The director reserves the right to modify the kinds and amounts of insurance coverage required in this section, including the right to make periodic adjustments to the amounts of required coverage for inflation.
 - d. If the applicant receives a broker services permit from the city, the applicant/permittee shall maintain the required insurance in effect at all times thereafter until the permit expires or terminates.
- (4) Permit fee. The applicant shall pay an annual permit fee in the amount of \$1,500.00 when the applicant submits its initial application and when the applicant/permittee submits subsequent applications for permit renewals. The permit fee is non-refundable.
- (c) Liability of the city and the department. The above insurance requirements shall not be construed as imposing upon the city or the department or any official or employee thereof any liability or responsibility for injury to any person or damage to any property by the insured, the insured's agents or employees.
 - (d) Indemnification. Each applicant shall execute an indemnification agreement whereby the franchisee covenants to indemnify, hold harmless and defend the city, its officers, agents and employees, against and assumes all liability for any and all claims, suits, actions, damages, liabilities, expenditures or causes of actions of any kind arising from any solid waste collection, transportation, and/or disposal activities, and/or the use of any public streets for the purposes authorized in this chapter.
 - (e) Commencing service. An applicant for a broker services permit shall not provide services to any person until the city issues a permit to the applicant. Applicants for a broker services permit and permittees shall not use, hire, or enter into a contract with a private waste contractor unless the private waste contractor has a current non-exclusive franchise and is in good standing with the city.
 - (f) Term. Each permit shall expire one year after it is issued by the city.
 - (g) Renewal. A broker shall submit its application to renew its broker services permit to the department for approval at least 30 days before the expiration of the existing permit. At the discretion of the department, the broker may be required to provide additional supporting documentation. If the broker submits a timely and complete application, the broker may continue to procure, manage and supervise services in the city, without interruption, until the city makes a final determination to grant or deny the application. If the broker fails to submit a timely and complete application, the broker shall suspend its services in the city upon expiration of the existing permit.
 - (h) No transfer. A broker services permit cannot be transferred or assigned to any other person, without the prior written approval of the department.

Section 90-198. Required; broker's fee.

Each broker shall pay a quarterly broker's fee equal to 15 percent of the broker's net revenues collected from customers during the previous calendar quarter.

The term "Net revenues" as used in this section shall mean the entire amount of the gross receipts, fees or other income collected by each broker from customers (including any rebates or other fees or payments received by brokers from private waste contractors either directly or indirectly related to the services the private waste contractors provide to the customers), whether wholly or partially collected, less all payments to private waste contractors for the solid waste collection and disposal services provided to customers.

The term "gross receipts" as used in this section shall mean all monies collected by the broker (whether wholly or partially collected) from all transactions and activities in the broker's regular course of business and trade, including administrative fees and charges, garbage, industrial, solid waste, used cooking oil waste, biomedical or hazardous waste, environmental charges and fees, containerized waste services, fuel surcharge and other pass-through charges, and fees for services relating to construction and demolition debris, roofing materials, trash, litter, maintenance, compactors, refuse and/or rubbish collection removal and disposal services rendered, hand bag collection, recycling (excluding recovered materials at commercial establishments as defined by F.S. § 403.703), or from any other source related directly or indirectly from waste collection and disposal services, including, but not limited to, all income derived from the use of dump trucks, boxed in, framed, fenced in, or otherwise designated storage areas, etc., containers, bagsters, chutes, and any other vehicles and equipment used for collection and disposal of any debris, exclusive of the broker's fee herein and taxes as provided by law, whether wholly or partially collected within the city.

Secs. 90-199—90-220. Reserved.

DIVISION 3. FRANCHISE

Sec. 90-221. Required; fees.

Each franchise waste contractor shall pay to the city a franchise fee consisting of a percentage of the contractor's total monthly gross receipts collected from customers and brokers. The city commission shall have the option of raising the franchise fee once yearly, by resolution, following a duly noticed public hearing with 30 days' prior notice to all franchise waste contractors. Such raises shall not exceed two percent of the contractor's total monthly gross receipts yearly.

~~The term "gross receipts" as used in this section shall mean the entire amount of the fees collected by the contractor (whether wholly or partially collected) for solid waste collection and disposal within the city and including, without limitation, but excluding any taxes, and gross receipts from servicing rolloff and portable containers.~~

The term "gross receipts" as used in this section shall mean all monies collected by the franchise waste contractor (whether wholly or partially collected) from all transactions and activities in the franchise waste contractor's regular course of business and trade,

including administrative fees and charges, garbage, industrial, solid waste, used cooking oil waste, biomedical or hazardous waste, environmental charges and fees, containerized waste services, fuel surcharge and other pass-through charges, and fees for services relating to construction and demolition debris, roofing materials, trash, litter, maintenance, compactors, refuse and/or rubbish collection removal and disposal services rendered, hand bag collection, recycling (excluding recovered materials at commercial establishments as defined by F.S. § 403.703), or from any other source related directly or indirectly from waste collection and disposal services, including, but not limited to, all income derived from the use of dump trucks, boxed in, framed, fenced in, or otherwise designated storage areas, etc., containers, bagsters, chutes, and any other vehicles and equipment used for collection and disposal of any debris, exclusive of the franchise waste contractor's fee herein and taxes as provided by law, whether wholly or partially collected within the city. Gross receipts shall not include income derived from servicing rolloff and portable containers.

Sec. 90-222. List of accounts.

- (a) Each franchise waste contractor shall provide the city manager with the following information upon initial application for a franchise and, thereafter, at the commencement of each application for renewal:
 - (1) A current list of the names and addresses of each account franchise;
 - (2) The frequency of service;
 - (3) The permit number and capacity of each waste dumpster as per account;
 - (4) The permit number and capacity for each recycling container, as per account;
 - (5) The address serviced by each dumpster; and
 - (6) The address serviced by each recycling container.
- (b) No property owner may share an account with another property owner.
- (c) Notwithstanding subsection (a)(1), the contractor shall notify the city manager, in writing, on a monthly basis, of any changes in its list of accounts.
- (d) Each franchise waste contractor shall notify the City of all accounts that have been discontinued prior to the accumulation of garbage on the previously serviced premises.

Sec. 90-223. Monthly report.

Each franchise waste contractor and broker shall deliver to the finance department, on or before the last day of each month, a true and correct monthly report of gross receipts generated during the previous month from accounts within the city. This monthly report shall include the customer names, service addresses, account numbers, and the actual amount of solid waste and of any recyclable materials collected from each customer, and broker information required by section 90-192(m). Payments of the franchise fee shall be made monthly to the finance department, on or before the last day of each month, for gross receipts for the previous month. Contractors shall, on or before 60 days following the close of their respective fiscal year, deliver to the finance department a statement of

annual gross receipts generated from accounts within the city for the preceding fiscal year, certified by an independent certified public accountant. The contractor's failure to provide the certified statement of annual gross receipts within the required time frame shall be grounds for revocation or suspension of the franchise.

Sec. 90-224. Audit or inspection of licensee's books and records.

Each franchise waste contractor and broker shall allow the city's auditors, upon reasonable notice and during normal business hours (i.e. 9:00 a.m. — 5:00 p.m. Monday through Friday, excluding legal holidays), to audit, inspect and examine the contractor's or broker's books and records, and state and federal tax returns, insofar as they relate to city accounts, to confirm the contractor's and/or broker's compliance with this division. This information shall include, without limitation, the following: billing rates, billing amounts, sequentially pre-numbered invoices, signed receipts, trip tickets, computer records, general ledgers, and accounts receivable. Additionally, the city's auditors may communicate directly with contractor's and/or broker's customers for purposes of confirming compliance with this division. Failure to allow access to any books and records in this section shall be grounds for revocation or suspension of the franchise. Each franchise waste contractor and broker shall maintain all books and records relating to customer accounts for a period of at least five years.

Sec. 90-225. Failure to pay franchise fee; penalties.

If a franchise waste contractor or broker fails to pay any franchise fee (as set forth in section 90-221) or broker's fee (as set forth in section 90-198), when due and within the time provided, the contractor or broker (as applicable) shall pay any and all of the city's expenses for collection of same, including, without limitation, audit costs and reasonable attorney fees and costs. If the contractor or broker fails to pay the full ~~franchise fee~~ amounts due on or before the last day of each month, penalty fees for private waste collectors/contractors/brokers shall be as follows:

- (1) *Original delinquency.* Any franchise waste contractor or broker who fails to remit any franchise fee imposed by this division within the time required shall pay a penalty of ten percent of the amount of the delinquent fee in addition to the amount of the delinquent fee.
- (2) *Continued delinquency.* Any franchise waste contractor or broker who fails to remit the franchise fee or broker fee on or before the 30th day following the date on which the fee first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the delinquent fee, in addition to the amount of the fee, and the ten-percent penalty imposed pursuant to subsection (1). An additional penalty of ten percent of the amount of the delinquent fee shall be paid for each additional 30-day period, or part thereof, during which the franchise fee or broker fee is delinquent, provided that the total penalty imposed by subsection (1) and this subsection (2) shall not exceed 50 percent of the amount of the franchise fee or broker fee. This penalty shall be in addition to the franchise fee or broker fee and interest imposed by this division.

- (3) *Interest.* In addition to the penalties imposed in subsections (1) and (2) of this section, any franchise waste contractor or broker who fails to remit any franchise fee imposed by this division shall pay interest at the highest legal rate of interest permitted by law on the amount of the franchise fee, exclusive of penalties, from the date on which the franchise fee first became delinquent until paid.
- (4) *Penalties merged with franchise fee/broker fee.* Every penalty imposed and all interest accrued under the provisions of this section shall become a part of the franchise fee or broker fee required to be paid to the city.

Sec. 90-226. Evidence of payment.

In order to effectively provide for the collection of the required business tax receipts to the city, any person seeking to renew a business tax receipt pursuant to the provisions of chapter 18 shall provide the finance department with evidence of payment of all outstanding solid waste franchise fees, fines, and other charges, as a condition to reissuance or renewal of the business tax receipt.

Sec. 90-227. Handling of complaints.

Each franchise waste contractor and broker shall maintain an office in Miami-Dade County with adequate staff and telephone service to handle and resolve all incoming calls and complaints between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. Between the hours of 4:00 p.m. and 8:00 a.m., Monday through Friday, and all day on Saturday and Sunday, including holidays, each contractor shall maintain an answering service or answering machine to receive incoming calls and complaints. Any complaints received by the contractor before noon (12:00 p.m.) shall be resolved before 4:00 p.m. of that same day. Complaints received after noon (12:00 p.m.) but before 8:00 a.m. shall be resolved before noon (12:00 p.m.) of the following day. An emergency telephone number where the contractor may be reached shall be provided to the city manager or his authorized designee.

Sec. 90-228. Regulations for servicing dumpsters, compactors and other garbage facilities.

Garbage collection equipment shall consist of trucks with leakproof and enclosed bodies, with compactors and sanitizing materials in each truck, and covered in leakproof garbage dumpsters. The location of each dumpster, recyclable material container, and any and all other garbage facility(ies) shall be approved by the city manager, or his authorized designee, and a permit will be issued for each. No dumpster, recyclable material container, or any other garbage facility shall be placed or serviced until such permit is issued. Notwithstanding the preceding, in the event any such facility is delivered by a contractor without a permit, the city shall still receive payment for the account in computing the franchise fee due under section 90-221. Contractors shall return dumpsters, recyclable material containers, and any other garbage facilities to approved locations after servicing. Compactors shall not be installed without a permit from the city's building department. Each garbage facility and/or each recycling container must bear the name of the contractor and must be serviced and sanitized at least twice weekly. Garbage

facilities or recycling containers located on public property, or without a city permit, shall be deemed abandoned and will be removed by the city at the contractor's expense, pursuant to section 90-331 et seq. Service pickups by trucks are to be made from streets and driveways. Trucks shall not be driven or parked on sidewalks at any time. Contractors may not park any truck on any public or private property within the city when not being used to service accounts. Collection hours for all solid waste or recyclable materials shall be between the hours of 7:00 a.m. and 7:00 p.m. only. All permanent employees of contractors shall carry identification cards, approved by the city manager or his designee, at all time(s) while servicing accounts. In addition to the required solid waste and recyclable materials collection pursuant to the provisions of this section 90-228, and other requirements of this chapter, contractors shall include the collection of garbage, rubbish, trash, and recyclable materials, up to and within that immediate area of the owner's private property line where a dumpster, compactor, recycling container, or garbage facility may be located and, at a minimum, within a radius of ten feet surrounding the location of said recycling container, or garbage facility, regardless of whether such garbage, rubbish, trash, or recyclable materials may or may not be included or secured in a recycling container, or other garbage facility. Such immediate collection of garbage, rubbish, trash or recyclable materials shall be incorporated by contractors as part of their regularly scheduled service pickups.

Sec. 90-229. Selection of franchise waste contractors.

- (a) Except as provided in section 90-233, the city shall not authorize more than five franchise waste contractors for residential and commercial solid waste collections and disposal. Each applicant for a franchise, or for a renewal thereof, shall submit its qualifications, in writing, to the city manager. The minimum qualifications to be considered in the granting of the franchise shall include:
 - (1) Evidence of the applicant's ability to fulfill all duties and requirements of a franchise waste contractor, as set forth in this chapter, and including, without limitation, proper certification and adequate insurance coverage.
 - (2) Certification that the applicant has never defaulted on any government contracts or bid awards.
 - (3) Evidence that the applicant has the potential for a significant amount of business within the city, comprised of either a minimum of 50 committed accounts within the city. In the alternative, and at its sole discretion, the city commission may accept as evidence of compliance with this subsection, 50 comparable committed accounts from outside of the city.
 - (4) Certification that there are no unsatisfied judgments against the applicant.
 - (5) Certification that the applicant is not, and will not be, throughout the term of the franchise agreement, affiliated with, as a parent, subsidiary, by virtue of an interlocking directorate, or otherwise, an affiliated entity of any existing, private waste contractor under section 90-191, et seq., or other franchise waste contractor under section 90-221, et seq., including any current or prospective applicants therefore.

- (6) The applicant's ability and commitment to provide its customers with:
 - a. Good service;
 - b. Competitive prices; and
 - c. Demonstrated and/or proposed "green" initiatives.
- (7) The applicant's ability and commitment to provide additional "public benefit(s)" to the city which may include, without limitation, provision of additional waste collection, disposal, and/or recycling services (at no cost to the city) to city rights-of-way, city-owned public buildings, parks, and/or beaches; voluntary cost and/or fee reductions; and/or such other city public benefits and/or services as the city manager may, in his reasonable judgment and discretion, from time to time, require.
- (b) If more than one applicant for a franchise waste contractors' license qualifies under the minimum qualifications of this division, the issuance of the franchise shall be determined by the city commission, based upon the applicant which the city commission deems, in its sole and reasonable judgment and discretion (and having considered the recommendation of the city manager to have provided the most significant public benefit(s) to the city (pursuant to subsection 90-229(a)(7)).

Sec. 90-230. Term of franchise agreements; initial term; renewal term.

- (a) Effective ~~May 1, 2010~~ October 1, 2023, franchise agreements shall have an initial term of five years. The franchise agreements may be extended for three additional one-year renewal terms, exercised at the City's option. ~~As to those certain franchise agreements between the city and franchise waste contractors in effect as of May 1, 2010, but having an initial three-year term which commenced on October 1, 2009, said initial term shall be extended from three to five years (with the five-year term commencing retroactively as of October 1, 2009).~~
- (b) Prior to the expiration of the initial term of a franchise agreement, the city commission may choose, in its sole discretion, to accept applications for new franchise waste contractors, or, in the alternative, to renew an existing franchise agreement for up to an additional ~~three-year~~ renewal term, in accordance with section 90-229.

Sec. 90-231. Recycling requirements for franchise waste contractors; protest procedures.

- (a) *Recycling requirements.*
 - (1) Each franchise waste contractor shall, as a condition of the franchise, be required to offer directly, or through a subcontractor, recycling for any and all accounts (as defined below) serviced by the contractor (including, without limitation, any and all commercial and residential accounts).
 - (2) Each contract with a franchise waste contractor for waste collection and disposal services (an account) shall include a proposal to provide recycling. Such proposal shall, to the maximum extent that is commercially feasible, maximize recycling activity in the city, and provide for sufficient flexibility in recyclable

materials container size and location (as is both necessary and consistent for the particular account).

- (3) Each recycling proposal shall be required to disclose to the account holder the savings offset that is anticipated as a result of the recycling and the consequent reduction of solid waste disposed; provided, however, that the recycling proposal (and the required savings offset) shall remain within the purview of the franchise waste contractor and the particular account holder to negotiate.
 - (4) Effective May 1, 2010, all contracts between a franchise waste contractor and an account holder for the collection and disposal of solid waste in the city shall be modified to include a provision to offer/provide recycling, consistent with the provisions of this subsection 90-231(a). The franchise waste contractor shall be given a six-month grace period commencing on May 1, 2010, to amend all of its contracts (including contracts with current account holders) to include a provision offering the required recycling services.
- (b) *Protest procedures for multifamily residences only.* In the event that the recycling bid and/or price quote (hereinafter, the offer) provided by the contractor to an account holder who is an owner, occupant, or operator or manager of an apartment building or other multifamily residence, is deemed unfair by said owner, occupant, or operator or manager, then the aggrieved party may file a protest with the city manager. Any such protest must be submitted in writing; must be made within 30 days of receipt of the offer by the aggrieved party; must include a copy of the offer; and must clearly state the reasons and grounds that the aggrieved party considers the offer to be unfair. Protests not made within the time period set forth in the preceding sentence shall be time-barred and shall receive no further consideration. Upon receipt of a timely written protest, the city manager shall provide a copy to the particular contractor, who may respond to the protest, in writing, within 15 days of receipt of the protest. At the end of the 15 days, the city manager has 30 days to direct that an administrative hearing be scheduled to consider the protest (which hearing need not necessarily be held within the 30-day period). The aggrieved party and contractor shall be given written notice, certified mail return receipt requested, of the hearing date. The hearing shall be conducted by the city manager, or a designee appointed by the city manager, and shall be conducted in accordance with the provisions established pursuant to section 102-385. At the hearing, the city manager or his designee may hear testimony and consider any relevant evidence from the parties regarding the subject protest and, at the conclusion of the hearing, the city manager or his designee shall make a written determination as to the fairness or unfairness of the protest. An offer shall not be deemed to be unfair if it provides for prices, terms, and services as would be provided to buildings of comparable size and character within the area, and which is competitive within the local industry standards. If the offer is deemed unfair, the city manager, or the city manager's designee, shall require the contractor to provide the aggrieved party with a new offer that meets the minimum criteria for fairness (as established in the preceding sentence). The contractor's failure or refusal to provide a fair alternate bid and/or quote may be grounds for suspension or revocation of contractor's franchise agreement.

Sec. 90-232. Bankruptcy or insolvency.

If the franchise waste contractor becomes insolvent or if the contractor files a petition of voluntary or involuntary bankruptcy, its franchise shall automatically terminate no later than the date of filing of the bankruptcy petition.

Sec. 90-233. Exemption to provide for recycling.

- (a) Notwithstanding any other provisions of sections 90-221 through 90-231, until such time as the city commission approves and implements a city-wide recycling program for multifamily residences, which program may also include recycling for commercial establishments, subject to and as permitted by section 403.7046, Florida Statutes (hereinafter, the "city-wide recycling program"), the city manager may continue to license individual recycling contractors (pursuant to section 90-306 et seq.).
- (b) If the city commission determines at any time to approve and implement a city-wide recycling program, the city manager shall then meet with the current franchise waste contractors (subject to and as permitted by Section 403.7046, Florida Statutes), for the purpose of negotiating terms and conditions connected with the provision of recycling pursuant to the city's program, and as to that portion of the program pertaining to multifamily residences. The terms, including rates to be charged by contractors shall be comparable to those established in municipalities in Miami-Dade, Broward and Palm Beach Counties for provision of similar recycling services.
- (c) Each franchise agreement between the city and a franchise waste contractor shall require that, in the event that the city commission approves and implements a city-wide recycling program, any franchise waste contractor who opts not to provide the required recycling services for multifamily residences under the city's program, must notify its account holder, in writing, informing them that they may, within 60 days of receipt of the notice, elect to terminate their account and then existing contracts with said contractor, without liability to the account holder.
- (d) If none of the franchise waste contractors come to an agreement with the city manager within 60 days, the city manager may, at his/her option, provide recycling pursuant to the approved city-wide program by:
 - (1) Entering into an agreement with other persons to provide recycling to accounts serviced by franchise waste contractors;
 - (2) Entering into an interlocal agreement(s); and/or
 - (3) Granting additional franchises to waste contractors who are willing to provide the recycling services required by the city, and who shall also have all privileges and duties of franchise waste contractors as set forth in this chapter (including those pertaining to collection and disposal of solid waste).
- (e) If the city enters into agreement for provision of recycling services pursuant to the approved city program, except for an interlocal agreement, rates charged for recycling in the city by those contractors shall be set and approved by resolution of the city commission.

- (f) Notwithstanding anything to the contrary in this section 90-233 or the city-wide recycling program (if approved and implemented), selection of recycling contractors to service commercial establishments under the program shall be in accordance with the requirements of Section 403.7046, Florida Statutes, as same be amended from time to time.

Sec. 90-234. Revocation of franchise.

Failure on the part of a franchise waste contractor to comply in any material way with the provisions of this chapter or with its franchise agreement shall be cause for termination and revocation of the franchise, but no such termination shall take effect if the reasonableness or propriety thereof is protested by the contractor until a court of competent jurisdiction (with right of appeal in either party) shall have found that the contractor has failed to comply in material respect with any of the provisions of this chapter or of the contractor's franchise agreement with the city. If such protest is filed, the contractor shall continue to pay the city the franchise fee required by this chapter and its franchise agreement with the city.

Sec. 90-235. Required certification and disclosure form for franchise waste contractors.

- (a) Effective May 1, 2010, all contracts between a franchise waste contractor and ~~an account holder~~ a customer, and all contracts between a broker and a customer, for the collection and disposal of solid waste in the city, shall require the franchise contractor ~~or broker~~ to execute (as well as require the franchise waste contractor ~~or broker~~ to have the contracting party, which is the contractor's customer/account holder, customer execute) the city's disclosure and certification, as may be amended by the city from time to time. ~~(for City of Miami Beach franchise waste contractor customers), in the form specified in appendix 1.~~ The executed certification and disclosure forms shall be ~~the franchise waste contractor,~~ maintained by the franchise waste contractor or broker along with contractor's with their books and other records.
- (b) In order to enforce the provisions of this section, the city manager and/or his/her authorized designee may, at any time during the term of the franchise, request that the franchise waste contractor provide true and correct copies of any or all disclosure forms for its customer(s)/account holder(s). Contractor's compliance with this section may also be enforced by city audit, or inspections pursuant to section 90-224.
- (c) A franchise waste contractor's failure to comply with the provisions of this section may be grounds for suspension or revocation of contractor's franchise agreement with the city.

Section 90-236. Brokers' contracts with customers and private waste contractors; writing required.

- (a) A broker shall enter into a written contract with a customer prior to providing any collection service to that customer. The broker's written contract with the customer must clearly identify: (1) the name of the customer; (2) the customer's service

address; (3) the customer's billing address; (4) each of the services that will be provided to the customer; (5) the capacity of each collection container, including each compactor, that will be used by the customer; and (6) each of the fees that will be billed to the customer, including the broker's commissions or fees, pass-through fees, fuel charges, administrative fees and other charges.

(c) A private waste contractor shall enter into a written contract with a broker prior to providing any collection service to any person or customer represented by the broker. The franchisee's written contract with the broker shall contain all of the information required pursuant to section 90-236(a)(1) through (5), above. The franchisee's written contract with the broker also shall identify each of the fees that will be billed to the broker, including pass-through fees, fuel charges, administrative fees and other charges.

(d) A contract between a private waste contractor and a customer, or a broker and a customer, must provide for a minimum frequency of service that complies with the minimum requirements set forth below:

(1) Commercial waste shall be collected, at a minimum, twice a week.

(2) Garbage and trash generated by multi-family dwellings shall be collected, at a minimum, twice a week.

(3) Bulk waste generated by multi-family dwellings shall be collected, at a minimum, once a month.

(4) Recycling materials generated by commercial property and multi-family dwellings shall be collected, at a minimum, twice a month.

(5) If using compactors, the compacted solid waste or recyclable materials shall be collected, at a minimum, once a week.

(6) If the minimum frequency of service set forth in subsections (1), (2), (3), (4), or (5) is insufficient to prevent waste from overflowing the collection container or being placed above the sidewalls of the collection container, at the department's discretion, and upon notice, the private collector and/or broker shall be required to increase the frequency of collection, or the size or number of collection containers, to prevent unsanitary conditions.

(e) In no event shall any contract between a broker and a customer prohibit the customer from directly contacting the department or the private waste contractor in connection with a service issue or complaint regarding the solid waste collection or disposal services being provided to the customer.

(f) The contract between the broker and customer shall include the following:

(1) The term of the contract shall be for a maximum period of two years, provided, however, that if a trash compactor is included as part of the contracted services, the term of the contract may be for a period of 5 years.

(2) Automatic renewals shall be strictly prohibited.

(3) The broker shall provide customer with a contract expiration reminder notice no less than 90 days before the contract's expiration. The contract shall specify that if the customer fails to respond to the broker prior to the expiration of the contract, the contract shall continue in place on a month-to-month basis, provided, however, that either party may at any time thereafter terminate the contract upon 30 days prior written notice.

Secs. 90-2376—90-255. Reserved.

* * *

SECTION 2. That Section 102-379 of Article V of Chapter 102 of the Code of the City of Miami Beach is hereby amended as follows:

CHAPTER 102

TAXATION

* * *

ARTICLE V. LOCAL BUSINESS TAX

* * *

Sec. 102-379. Schedule of taxes, effective October 1, 2016.

(a) Business taxes for the following businesses, occupations or professions are hereby levied and imposed as follows:

(b) Effective on October 1, 2005 (fiscal year 2005-2006), the following business taxes will be increased by five percent rounded to the nearest dollar, and further increased by five percent every other year on October 1, until such taxes/fees have caught up with the cumulative percentage change in the Consumer Price Index (CPI) measure between June 1994 through March 2003, which is 24.5 percent; further providing for another change equal to the cumulative percentage change in the CPI from March 2003 to September 2011.

(c) As provided in Resolution No. 2003-25299, a review of the annual permit fee/business tax will be required whenever the change in the Consumer Price Index (CPI), between the latest CPI and the date of the CPI used for the last tax/fee adjustment, is five percent or greater.

(d) Effective on October 1, 2009 (fiscal year 2009-2010), business tax receipt applications shall be charged a \$45.00 fee for the processing of new applications.

Occupation Code	Business Tax Category	Amount
	* * *	
	G	
	Garbage, waste contractor insurance required; see Chapter 90, Article IV for all requirements; state license required	
95008404	1. <i>Biohazardous</i>	663.00
95008401	2. <i>Franchise</i>	663.00
95008403	3. <i>Hazardous</i>	663.00
95008402	4. <i>Recycling (DERM permit)</i>	663.00
95008400	5. <i>Roll off</i>	663.00
	<u>6. <i>Broker</i></u>	<u>663.00</u>
	* * *	

* * *

SECTION 3. CODIFICATION

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 4. REPEALER

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 5. SEVERABILITY

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect on the ____ day of _____, 2023.

PASSED AND ADOPTED this ____ day of _____, 2023.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(sponsored by Commissioners David Richardson and Alex J. Fernandez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney


Date
4-19-23